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## REPORTS



# NOTES OF THE WEEK

### New Trial

Although the Criminal Appeal Act, 1907, does not empower the Court of Criminal Appeal to order a new trial, there still remains the power to grant a writ of *venire de novo*, and this power was exercised by the Court of Criminal Appeal in *R.* v. *Solomon* (*The Times*, November 12).

The appellant appealed against conviction at borough quarter sessions on the ground that the jury was not properly constituted. When he came up for trial all the jurors summoned for that day had been dismissed, and the clerk of the peace proceeded to pray a *tales* and sent out and obtained 12 people who served as a jury.

In delivering the judgment of the Court the Lord Chief Justice said this brought up the questions when a *tales* could properly be prayed and what the necessities were before talesmen could be empanelled. The law regarding talesmen was particularly obscure. One thing did emerge as certain—and the Court proposed to leave its judgment at that. That was that one could not have a complete jury of talesmen; one could not have a *tales* without a *quales*. In the present case none of the 12 had been summoned. The proper course would have been to require the sheriff to empanel a jury *instanter*. As it was, it seemed as though the trial had taken place with no jury at all. Therefore, with great reluctance, the Court would set aside the order and would certainly order a *venire de novo* and for the appellant to be arrested and tried over again at the next quarter sessions.

### Victim as Advocate for the Defence

We have written on more than one occasion about the offence of taking and driving away a motor vehicle without the owner's consent but we have never before read or heard of the defendant in such a case being represented by a solicitor who was one of the victims of his offences. The *Liverpool Daily Post* of November 8 reports the case of a youth of 17 who pleaded guilty to such an offence. He was fined £20 and was disqualified for 12 months. The car to which the charge related was missed during the afternoon and was found at 7 o'clock the same evening at a place where it had crashed while being driven at a fast speed. Damage to the extent of £400 was caused. The defendant admitted, when seen, that he had been driving at 75 miles per hour.

The solicitor who appeared for the defendant said that the youth "had been very foolish." His own car had been damaged and he had conceived the idea of borrowing others. He had admitted to his solicitor that one of the cars he had borrowed was the solicitor's, which he had taken from outside the office where it had been left. The solicitor quite properly blamed himself for having left the ignition key in the car and said that he would not do that again. The learned magistrate (who probably has all too many such cases) expressed the hope that others would copy this example.

In spite of the solicitor's admission of having left the ignition key in the car, we do not think that it is an adequate description of the youth's conduct to say that he had been very foolish. This is a serious criminal offence and it led in the case which was the subject of the charge to damage amounting to £400 being done to someone else's car. A better description would have been that he had been very wicked in the sense that, to quote the dictionary, he had "offended intentionally against the right." Nothing is gained by the use of euphemisms which fail completely to fit the facts.

### The Defendant's Means

A magistrates' court, in fixing the amount of a fine, is required to have regard to the means of the defendant, so far as they are known to the court. When the defendant does not appear and is convicted in his absence, the court often has little or no information on this point, and may have to be satisfied by the statement of the police officer that the defendant was a lorry driver, or a chauffeur or an owner-driver, and possibly no more than that.

Sometimes the defendant may have volunteered to give sufficient details, either to the constable or in a letter to

the court, to enable the court to assess his probable earnings.

It may be expected that there will be more absent defendants under the new procedure authorized by the Magistrates' Courts Act, 1957, and this question of fixing the amount of the fine becomes more important. In a recent motoring case at Newcastle the learned clerk drew attention to the difficulty confronting the court in these cases, and after the magistrates had conferred the police were asked to try to ascertain the defendant's means if they can, so that the information can be placed before the court.

This is perfectly reasonable. The defendant is not obliged to give the information, but if he does not, the court may fine him more than it would have done if it had known his position in life. Many men would not wish to disclose the amount of their wages or salary to be read out in court and perhaps reported in the local newspaper for inquisitive neighbours to read, but it would be of assistance to the court to know a man's occupation and perhaps for whom he worked, if he felt willing to give these particulars. As the clerk at Newcastle said, the defendant who declines to give information will have to take the consequences. Refusal is most likely in the case of the defendant who disputes the charge, and he will probably attend the court, so the inquiry by the police officer is unimportant. In any event, it is a matter for the exercise of tact, and there is no element of compulsion.

**Cause and Effect**

Regulation 91 of the Motor Vehicles (Construction and Use) Regulations requires motorists who leave their vehicles unattended to stop the engine and to set the handbrake securely.

To fail to comply with this regulation would not seem ordinarily to be a serious offence but courts should have in mind that it is a very necessary regulation and that such offences can have serious consequences. Fortunately it must be exceedingly rare for the consequences to be as unfortunate as they were in a case reported in the *Newcastle Journal* of November 6.

A small boy of six was playing on a street corner at the bottom of a hill. A car was left unattended on the hill and it started to run down the hill. It gained momentum, hit the small boy and pushed him through a wall. He died later from his injuries. The driver of the car was summoned and was fined £20. A police mechanic who examined the car after the accident said that the brake was useless and that the slightest push could have moved the car. A witness said that she saw the car begin to move down the hill and did not see anyone touch it to start it moving.

In this particular case the gravity of the offence lay in leaving the car on a hill with a handbrake that was incapable of holding it effectively and with no other precaution to prevent the car from moving. This was not only a breach of reg. 91, but was also an obviously dangerous thing to do. The fine of £20 was the maximum amount permitted by reg. 104.

**" Flick "-knives**

Strong condemnation of the " flick "-knife, which he described as an invention of the devil, was uttered by Streatfeild, J., at York Assizes, when he was summing up in the case of *R.* v. *Taylor*, a trial for murder. The learned Judge found no particular satisfaction from the fact that these weapons were made abroad, and expressed the opinion that either their sale in this country should be prohibited or they should be subject to strict controls like those applying to firearms. The jury found the prisoner guilty and he was sentenced to imprisonment for life. The jury unanimously recommended that the sale of these knives should be banned.

This was an instance of the use of a " flick "-knife with fatal result. As the learned Judge said, they are too often used in the commission of crimes of violence, often by young people. It is, as he suggested, a matter which Parliament might be asked to consider, and in fact it has already been raised.

**The London Police Court Mission**

In the report of the London Police Court Mission for the year 1955–56 it was stated that requests had been made for an extension of its work. This extension, says the report for 1956–57, has happened. The trustees of the Calouste Gulbenkian Foundation are to make available a sum of £20,000 to establish in a country town, an approved probation hostel for the training of girls mainly from rural areas. Efforts have been made to find a suitable house in the right neighbourhood where adequate employment is available.

Homes, hostels and schools under the management of the Police Court Mission form a principal part of its work, but by no means all of it. The first probation officers were appointed from the ranks of the police court missionaries, and it is fitting that today the Mission is still concerned with probation and probation officers. At the request of the Home Office, the arranging of lectures covering the religious and vocational aspects of the work of probation officers continues to be undertaken by the Mission.

It is pointed out that the generous gift from the Gulbenkian Foundation was for a specified capital purpose, and that for income purposes the Mission is in need of sustained and increasing support from voluntary subscriptions and donations. As the report says, owing to the lower purchasing power of money, charities, like individuals, need an increased income if debts are to be avoided and essential activities are to continue unabated. The history of the Police Court Mission justifies its claim to public support.

**Criminal Responsibility**

The report includes separate accounts of the various institutions managed by the London Police Court Mission all of which show that valuable work is being done, often with difficult material, but with encouraging results. Want of space prevents us from quoting from them as we would like to do, and we confine ourselves to an extract from the report of Mr. C. A. Joyce, headmaster of the Cotswold Approved School, on the topical question of the age of criminal responsibility.

" I would like to add something to the discussion that is going on about the age of criminal responsibility. May I remind our readers that, at present, a child is not criminally responsible under the age of eight and that there are some children who are not only well aware of this, but who exploit it to their own ends and boast of it. It is now becoming a matter of discussion as to whether or not the age should be raised to 12, and at least one important body has suggested that the age of responsibility should be raised to 18. As a matter of personal opinion, I think that this suggestion is well-intentioned but ill-advised. It seems to me that we are making things much too difficult for young people today. Instead of letting them know what the rules are and insisting on a reasonable standard of observance, we are, in effect, saying to them: 'There, there! We do understand what you feel!' And our papers report all too frequently crimes involving much damage

to property and to people and animals, and even to birds while they are nesting.

"I would plead very sincerely for a much greater measure of intolerance in these matters, not because I want to see more punishment, and not merely because I am angry and grieved at what these young people do. I am pleading for intolerance in these things in order to make it easier for young people to avoid these tragedies which ultimately must add to the general total of misery —and not least, to the unhappiness of the children themselves. . . .

"I do appreciate that as one gets older there is always a danger of confusing increasing years with experience. The one does not always produce the other! But I do feel that the tendency to ignore the views of older people is not always wise. To tell Youth (with a capital 'Y') that it is responsible for the future of this country seems to me to be inordinately stupid, and it is untrue. I wish that the youth of this country could be inspired with the ideal of service before they are built up to believe in the easy path of pseudo-leadership. In so many cases I think we are asking them to carry on their young shoulders a burden that belongs properly to the older generation, but if we can get them to go through the necessary exercises while they are young, I think they may well develop the moral muscle that will enable them when the time comes to carry the load that belongs to people of experience."

**Gretna Green Marriages**

Irregular marriages by declaration and by promise *subsequente copula* were abolished by the Marriage (Scotland) Act, 1939, and so we hear little today about Gretna Green marriages. One such marriage, celebrated in 1939, was referred to in a magistrates' court recently, when a woman obtained an affiliation order against the man whom she had believed to be her husband.

*The Daily Express* of November 5, reporting the proceedings, stated that she married a man in September, 1939, before the Marriage (Scotland) Act, 1939, came into force. It was explained that the marriage had taken place at the blacksmith's shop at Gretna Green, but that this year a Judge in the Divorce Court had held the marriage to have been invalid. Consequently her child was illegitimate and she instituted affiliation proceedings. The father of the child was now married to someone else.

The proof of irregular marriages entered into in Scotland is governed by the Marriage (Scotland) Act, 1856, *see Rayden on Divorce*, 6th edn. p. 416 and cases there cited.

**Irregular Committal for Trial**

Failure to comply with the statutory provisions in taking depositions before examining justices may render committal for trial unlawful: *R.* v. *Gee and Others* [1936] 2 All E.R. 89; 100 J.P. 227, but the admission before the justices of inadmissible evidence, even the evidence of an incompetent witness, does not render the committal unlawful: *R.* v. *Norfolk Quarter Sessions, ex parte Brunson* [1953] 1 All E.R. 346; 117 J.P. 100.

In *The Western Morning News* of November 1 there appeared an account of a case at Devon Assizes in which Salmon, J., held a committal for trial unlawful in what must be unusual circumstances. The man had been charged before the justices with offences of indecent assault upon a girl. It appeared from the depositions that the man's wife, a competent but not compellable witness, was called to give evidence for the prosecution. The newspaper report states that after she had given her evidence in chief and during the course of her cross-examination she was told that she need answer no further questions. It was obvious, said the learned Judge, that this did not comply with the Magistrates' Courts Act. The committal for trial was quashed and the question of leave to present a bill of indictment was left open.

What is not stated, and would be interesting to know, is why the wife was at that stage told that she need not answer further questions. It is considered, on the authority of *R.* v. *Acaster* (1912) 76 J.P. 263 that where a wife is a competent but not compellable witness for the prosecution against her husband she should be informed that she is not bound to give evidence. Was it, possibly, realized during her cross-examination, that she had not been told? This is only surmise, and may be wrong, and in any case the fact remained that she had given evidence. It would be interesting to learn exactly what happened.

**The Police and Street Garaging**

The pernicious practice of street garaging will not be checked or discouraged unless the police, as the authority responsible for seeking to enforce the relevant law, take steps to bring before the courts cases in which there is evidence of obstruction by unreasonable use of the highway.

We read in the *Evening News* of November 12 that the following message was given to London motorists by an assistant commissioner of metropolitan police. "Before you go to bed tonight leaving your car without lights in the street outside, make sure the street lamps stay on all night." The report continues that if the lamps go out at midnight the motorist must get out of bed and put his lights on and that the assistant commissioner said that it is wisest to have a parking lamp on the car.

This may well have been advice directed only to warning motorists against infringing the law so far as lights on vehicles are concerned but it appears to us to be open, unfortunately, to the construction that the police in London have not the least objection to cars being left out in the street all night provided only that there is no breach of the law relating to lights. We think that there could be no complaint, and it would have given motorists no excuse for misunderstanding the position, if the statement were accompanied by a warning that motorists who leave their cars all night in the streets take the risk of being prosecuted for causing obstruction if the circumstances are such that an unreasonable use of the highway can be shown. The report to which we have referred makes no mention of there having been any such warning.

We find it difficult to believe that the metropolitan police, with their responsibility for keeping roads free for traffic at all times and with the constant demand from many quarters that accidents must be reduced, can view with equanimity a position in which more and more streets are being permanently obstructed by parked cars night after night. The season when fogs are likely is approaching, and such parked cars add enormously to the difficulties of any unfortunate motorist who is trying to drive in foggy conditions and provide innumerable hazards for pedestrians fumbling their way through the gloom. Motorists have shown themselves only too willing to misappropriate to themselves many stretches of our roads, and they do not need (and should not get) any encouragement from the police to extend their activities.

**Centenaries**

One of the things which every schoolboy knows is that January 1 became

New Year's Day comparatively lately. Writers of school history books must be even more familiar with the fact, but practical convenience usually leads them to date events earlier than 1750 as if the Calendar (New Style) Act, 1750, had already been in operation. This avoids a tiresome duplication (1740–41, for instance) and does not matter except when it is desired to celebrate the anniversary of some event which happened in the first three months of a year earlier than 1750, when it is sometimes found that local tradition has put the date a year too early or too late. This likelihood is increased by the practice which was followed until the 19th century, of dating deeds and other documents by regnal years alone. Older lawyers may be able to say off hand what was the calendar year corresponding, for example, to 47 and 48 Victoria, but even for the statutes and the law reports it has become normal to give the ordinary year. This was not so in earlier centuries. Our attention was drawn to the possibility of error, by a question about the proper time to celebrate the fifth centenary of a charter granted by King Edward IV, which was dated February 12, in the first year of his reign. Local tradition had attributed this to February, 1461, and this would have been correct if the Act of 1750 had not come into the matter.

Two dates about whose year there can be no dispute are the battle of Wakefield on December 30, 1460, when Edward's father was killed, and Edward's coronation on June 28 or 29, 1461. There is a minor difference of opinion about the coronation: apparently this had been intended to take place on June 28, but it was pointed out that the day was unlucky, being just six months from Holy Innocents, and so (according to some accounts) the coronation was deferred until the 29th which, being St. Peter's Day, was especially appropriate for an event in Westminster Abbey.

What happened in June does not, however, affect the problem of centenaries. We go back to February. Edward's entry into London was on February 26, and his proclamation purporting to depose Henry VI was on March 4. These are given in ordinary books as 1461, but in fifteenth century reckoning were in 1460. The battle of Towton, which established Edward's position, was fought on March 29, and this would be in 1461 by both reckonings.

The years of the reign would obviously be counted from the proclamation, so that the first year ended on March 3, 1461, by fifteenth century reckoning, which is March 3, 1462, by modern reckoning. The charter was, similarly, sealed on February 12, 1461, and its first centenary fell on February 12, 1561, but its third (by reason of the Act of 1750) on February 12, 1762. The fifth centenary of the charter will therefore fall on February 12, 1962.

# ACCIDENT PREVENTION

*By* A SENIOR POLICE OFFICER

The announcement that yet another road safety campaign, sponsored by the Royal Society for the Prevention of Accidents and the Ministry of Transport, has been commenced, will be received without much enthusiasm by the police and other bodies connected with the practical side of accident prevention. The Duke of Edinburgh has wished the campaign every success and, there is no doubt, everyone in the country will be hopeful for excellent results, but experience has shown that propaganda alone is practically useless.

There have been many other similar schemes, all of which have enjoyed only limited and temporary success. It is surely time that authority realized that exhortations to the public to "drive carefully"; "keep death off the road"; "mind that child" and so forth are ineffectual because, quite simply, failure to comply does not expose the "offender" to a severe *penalty*. It is true that offences and punishments are provided by law for individual bad driving offences when detected by the police, but the general standard of driving does not improve substantially after a mere campaign, because a bad driver knows (*a*) that he might not be caught (*b*) if he is caught, that he is unlikely to be punished severely.

Must we not, therefore, take a more realistic and practical view of this serious problem involving the killing or injuring of about 800 people on our roads every day? Positive and drastic action is necessary at once. Persuasion alone has failed and will continue to fail. We must make use of the one weapon which will prevent this carnage. This is, quite bluntly, to instil such a degree of fear by means of severe punishment into the mind of the bad driver that he will refrain from again doing anything seriously wrong on the roads.

Believers in the modern trend in penal reform will abhor such a suggestion. They will say that severe retribution for wrong doing only makes the individual concerned embittered towards society, and that the proper course is to try to make him have a greater respect for his fellow motorists and other road users by the present mild reformative measures such as endorsement of licences and fines, compulsory driving tests and so on. But, while all this is going on, as, in fact, it has for many years, what about those who are being slain and maimed each day? Are, for instance, the generally inadequate punishments given by the courts to road offenders doing anything to prevent the slaughter?

The recent shortage of petrol resulted in a reduction in the number of vehicles on the roads and, with it, there was a drop in the number of accidents. If we can now keep bad drivers off the roads, the accident figures will again be reduced. Is it not necessary, then, to try an experiment for a trial period of, say, one year of awarding such severe punishment that the selfish and dangerous driver will be forced off the roads temporarily? It is suggested that when his "sentence" is completed he will consequently have a greater respect for authority and will be a more considerate road user.

This can be achieved by legislating that all persons convicted of driving whilst under the influence of drink *must* be sent to prison for at least one month. By providing a similar punishment for an offender convicted of dangerous driving. By the courts being compelled to suspend for at least three months the driving licence of any person convicted of careless driving, and so on. What a reduction there would be in such cases! In drunken driving particularly the offender is often the owner of the vehicle which he has driven and, therefore, is a person of some financial means. At the present time he is often happy at getting away with a heavy fine. But is he really and truly *frightened* of doing the same thing

again ? He certainly would be if he had spent a spell in one of Her Majesty's prisons !

The physical standards of all drivers must also be carefully watched. Many accidents could be avoided if a driver reacted more quickly in an emergency. This is particularly important now when we find that nearly all new vehicles on the roads are capable of high speeds and, in fact, are driven faster than in previous years. The writer would suggest, therefore, that all drivers over the age of 60 should be compelled to take a physical test conducted by a doctor according to standards prescribed by the Ministry, and aimed at ensuring particularly that the examinee's reflexes are quick enough to allow him to drive a car with safety.

What a brutal, vicious outlook the writer has ! But surely we must face it. Kindly propaganda, persuasion and mild punishment have all failed to answer the accident prevention problem. Let us then counter drunkenness, and dangerous and careless driving with punishment which will strike fear into the very souls of the offenders. I think most of them will be careful afterwards, don't you ?

# LARCENY BY A TRICK AND FALSE PRETENCES—III

## FURTHER CONSIDERATIONS

[CONTRIBUTED]

### THE CASE OF *LAKE* v. *SIMMONS* AND THE FACTORS ACT, 1889

At the beginning of these notes a reference was made to the difficulty of distinguishing the offences of larceny by a trick and false pretences. In an endeavour to remove this difficulty, at any rate in part, cases were classified as falling within one of two groups, depending upon the nature of the facts from which the intention of the owner could be ascertained. The first group concerned cases in which there was a misrepresentation as to identity; the second group included those cases in which the transaction was incomplete.

It is not always easy to place a decided case within one or the other category, especially if only a short note of the case is referred to. *Lake* v. *Simmons* [1927] A.C. 487 is a case which at first sight appears to contradict the statement that a person (such as a shop-keeper) who is prepared to treat with all-comers irrespective of identity will not normally be influenced by a misrepresentation of identity. Being a decision of the House of Lords, it is essential that *Lake* v. *Simmons* should not conflict with any of the cases previously quoted to justify the above classification, otherwise the classification is faulty and the whole argument falls to the ground.

The case arose out of a claim by Lake, a jeweller, for the value of two pearl necklets lost during the duration of an insurance policy. The insurers claimed that Lake was not covered for loss in the particular circumstances of the case. He was insured against "loss or misfortune to any of the property arising from any cause" excepting "loss by theft or dishonesty committed by any customer."

The facts were that on March 2, 1923, a woman named Esme Ellison called at Lake's shop and said that she was the wife of a Mr. Van der Borgh and mentioned that her sister had just become engaged to a Commander Digby. The facts were false.

She bought a ring for £30. On March 6 she paid for the ring and bought a pair of old Sheffield dishes for £16 16*s.* for which she paid on March 16. On March 6 she also bought a diamond ring for £28 10s. for which she paid on April 4.

When she made her visit to the shop on March 6 she told Lake that her husband intended to give her as a birthday present a pearl necklet of the value of £1,000 and she asked to see some necklets. On March 16 Lake showed her two necklets and she asked him to permit her to take them home in order that her husband might look at them. Lake agreed and entered in his books: "P. F. Van der Borgh, Stonelands, Dawlish (1) a fine pearl necklet of 121 pearls £1,100; (2) a fine pearl necklet of 129 pearls £1,000. On appro." On March 21 Ellison brought one of the necklets back to the shop saying that her husband had selected the other and that Commander Digby admired the one she brought back but would not be able to pay the whole price at once. On April 4 Lake let her take the necklet she had returned for a further inspection by the fictitious Commander Digby and entered in his books: "Lt.-Commander Digby, Cadistock, Dorset, a fine pearl necklet (129 pearls) £1,000 on appro."

Ellison disposed of both necklets and neither was recovered.

She had, therefore, clearly made a misrepresentation to Lake as to her identity. But, as has been shown, a shop-keeper is not normally affected by misrepresentations as to identity on the question of whether he will, or will not, sell to the individual who stands before him. Yet Ellison was convicted of larceny and that conviction was approved by the House of Lords.

There can be no doubt that Ellison was, in the ordinary sense of the word, a customer. The fact that she had misrepresented herself to be a wealthy married woman did not affect Lake's intention to sell her the two rings and the dishes, although he might well have refused to allow her credit if she had given no information about herself.

The clue to Lake's intention regarding the passing of the property in the necklets is, however, to be found in the two entries he made in his books.

In his judgment, Viscount Sumner summaries the transaction thus: "Ellison proposed Van der Borgh and the fictitious Digby as purchasers. She never proposed to be the buyer herself. She never acquired nor was meant to acquire any property from Mr. Lake. He let her take the goods in order that these persons might see them on approval. He gave her no authority to negotiate or to conclude a bargain or to pass property from him to them."

Each of the learned Lords agreed that Ellison was not a customer for the purpose of this transaction. In other words the jeweller was not dealing with her as a person with whom he was prepared to sell *because she did not offer to buy*. He was dealing with her in the same way as he would deal with a person who had just bought an article and was asking for credit. She was not asking him to sell to her, she was asking him to let her have possession.

The facts are, therefore, that the misrepresentation as to identity and capacity did not have any effect on the jeweller's intention to pass the property in the necklets (*i.e.*, to sell them) to Ellison because the question of a sale to her never arose. The transaction, so far as the passing of the property in the necklets to her was concerned, was incomplete because he never intended to give her more than temporary possession.

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The whole basis of the distinction between larceny by a trick and false pretences is that in the former the property does not pass, whereas in the latter it does. There are, however, certain cases in which the property has been held by the courts to have passed notwithstanding a conviction for larceny. These are cases in which s. 2 (1) of the Factors Act, 1889, has been effective. This section reads as follows:

"Where a merchantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, any sale, pledge, or other disposition of the goods, made by him when acting in the ordinary course of business of a merchantile agent, shall, subject to the provisions of this Act, be as valid as if he were expressly authorised by the owner of the goods to make the same; provided that the person taking under the disposition acts in good faith, and has not at the time of the disposition notice that the person making the disposition has not authority to make the same."

There can be no doubt that there has been a divergence of judicial opinion as to the true meaning of the section, one view holding that where there is larceny by a trick no property passes and therefore a third party cannot obtain a good title; the other maintaining that whether property passes or not the operation of the section is unaffected. It is the latter view which prevailed in the case of *Pearson* v. *Rose & Young, Ltd.* [1950] 2 All E.R. 1027, a decision of the Court of Appeal.

The facts of the case were that the plaintiff gave possession of his car to a motor dealer named Hunt (a merchantile agent for the purposes of s. 2 (1) of the Factors Act, 1889). By means of a trick Hunt induced the plaintiff to hand him the registration book relating to the car. Later the same day Hunt, acting without the authority or knowledge of the plaintiff, sold the car and handed over the registration book to the purchaser. The car then changed hands twice more, ultimately finishing up in the possession of the defendants against whom the plaintiff claimed damages for the conversion of the car.

It was accepted by the Court of Appeal that the possession of the car was obtained by larceny by a trick and that the plaintiff did not intend to pass the property or authorize the agent to conclude a sale.

Denning, L.J. (as he then was), pointed out that originally the governing principle was that no person could give a better title than he himself had got, but that there had been a modification of this principle so as to protect innocent purchasers.

His Lordship made it clear, however, that the owner must consent to the possession of the goods by a merchantile agent as a merchantile agent. He went on:

"That means that the owner must consent to the agent having them for a purpose which is in some way or other connected with his business as a merchantile agent. It may not actually be for sale. It may be for display or to get offers, or merely to put the goods in his showroom, but there must be a consent to something of that kind before the owner can be deprived of his goods."

Where the owner is persuaded by fraud to part with the goods to the agent, he does, nevertheless, consent to the agent having possession. This is so whether as a result of the fraud he intends to pass the property or to give power to pass the property, or whether he merely intends to give possession. Thus where a merchantile agent obtains goods by means of larceny by a trick, this by itself will not prevent the Factors Act from operating.

It will be seen that this does not affect the distinction between larceny by a trick and false pretences. The operation of s. 2 (1) of the Factors Act, 1889, has been held not to depend upon whether or not there is a larceny, and consequently the decisions in which the operation of this section are involved do not conflict with the general principle that in larceny the property in goods does not pass.

C.T.L.

# THE LOCAL GOVERNMENT BILL

## PART I—GRANTS AND RATES

Clause 1 of the new Bill deals with the new system of general grants which, as from 1959–1960, it is intended that the Minister shall make to county councils and county boroughs in England and Wales instead of the specific grants at present payable to local authorities in respect of particular services specified in part I to the Bill and including:

Education (but not school milk and meals and other matters)
Health services under the National Health Service Act, 1946
Fire
Child care
Town planning (but not grants for blitz re-development and other matters)
Road safety
Traffic patrols
Registration of electors
Physical training and recreation
Residential and temporary accommodation under the National Assistance Act, 1948
School crossing patrols.

Subclause (2) provides for a prescribed aggregate amount of the general grants payable to "recipient authorities" composed as follows:

(*a*) the basic grant specified in part II of sch. 1 and
(*b*) any of the supplementary grants so specified which are payable under part II of the same schedule.

*Minus* the product for the area of the authority of a prescribed rate.

As to the basic grant the formula is set out in part II of sch. 1 "a prescribed sum" per head of the total population of the area plus another "prescribed sum" for each child under 15 years of age in the population of the area.

Supplementary shares are added under paras. 2–8 of part II of sch. 1 for such aspects as schoolchildren, young children

and old people, high and low density, declining population and high costs in Greater London.

Under subs. (3) the general grants payable to any recipient authority shall be paid at such times as the Minister may with the consent of the Treasury determine.

Part III of sch. 1 provides for adjustments of general grants and for pooling of certain expenditure of education, health and children authorities. By subs. (6) a general grant order shall not have effect until approved by a resolution of each House of Parliament. Such an order must be made in advance for successive grant periods.

By cl. 2 of the Bill the factors are prescribed which the Minister shall take into consideration when fixing the annual aggregate amount

(*a*) The latest available information about the expenditure on the relevant services and the current level of prices, costs and remuneration.

(*b*) Any probable fluctuation in the demand for the relevant services (" so far as the fluctuation is attributable to circumstances prevailing which are not under the control of local authorities ").

(*c*) The need for developing those services and the extent to which, having regard to general economic conditions, it is reasonable to develop those services.

Subclause (4) of cl. 2 provides that if it appears to the Minister that during any grant period any unforeseen change has taken place in the level of prices, costs or remuneration and that its effect on the cost of providing the relevant services is so great that it ought not to fall entirely on local authorities, the Minister may by order vary the annual aggregate amount of the general grants.

Clause 3 (1) provides that if the Minister is satisfied that a recipient authority has failed to achieve or maintain reasonable standards in any of the relevant services, comparing standards maintained in other areas, he may reduce the general grant payable to the recipient authority by such amount as he thinks just. The subclause goes on to provide that where the Minister is not the " appropriate Minister " (defined in cl. 62 as " the Minister in charge of the Government department concerned or primarily concerned with that matter ") he shall not act under the subclause except on the certificate of the appropriate Minister that the Minister is satisfied as aforesaid. Subclause (2) of cl. 3 applies these powers of reduction where the failing service is the function of a rating authority or a joint board. Subclause (3) enables the appropriate Minister to make regulations subject to annulment by a resolution of either House for prescribing standards and general requirements for any of the relevant services and provides for these matters to be taken into account when determining the question of failure under the subclause.

Subclause (4) of the same clause places a mandatory duty upon the Minister to lay a report before Parliament stating the amount of the reduction and the reasons for it and he cannot make the reduction until the report is approved by resolution of the House of Commons.

Clause 4 sets out the grants which will be discontinued as from 1959–60. These include a variety of different grants (*e.g.*, those for the salaries and establishment charges of highway engineers and surveyors and grants under the Food and Drugs Act, 1955, in respect of compensation for infected milk).

Clause 5 elaborates an amended code for " rate-deficiency grants " which were previously governed and called " exchequer equalization grants " by s. 2 of the Local Government Act, 1948, subcl. (2) of this clause includes county district councils, metropolitan borough councils and the common council of the City of London as well as county and county borough councils in the local authorities to whom this grant is payable. Capitation payments by county councils to local authorities in their counties are abolished.

Under cl. 5, subcl. (3) the condition precedent for payment of a rate-deficiency grant to a local authority shall be that the rate product of 1*d.* in the £ for its area in the given year is less than the standard penny rate product for the area and the amount of the grant shall be the amount which bears to the expenditure of the authority for that year the same proportion as the difference between the said rate product bears to the standard 1*d.* rate product for the area.

Subclause (4) of the same clause contains further provisions for ascertaining the " standard penny rate-product . . . " and subcl. (5) deals with what is the expenditure of a county council for the purposes of the clause. Subcl. (6) provides definition of expenditure of a local authority which is not a county council.

Clause 6 of the Bill enables the progressive limitation of rate-deficiency grant to " normal " expenditure. For the purposes of ascertaining the " normal expenditure " local authorities are divided by subcl. (2) into six groups and subcl. (3) provides a procedure for establishing " the triennial averages " of a local authority or group of local authorities. Subclause 6 (4) provides weighting for counties with a low ratio of population to road mileage and by subcl. 6 (5) if the triennial average of a local authority is less than the triennial average of the group the " normal expenditure " of the authority for the grant year is the product of the population of the area of that authority and the expenditure per head of the population for that year of the group as a whole. Clause 6 (6) provides for the position where the triennial average of a local authority equals or is greater than the triennial average of the group and goes on to ascertain " the normal expenditure " of the local authority for the grant year. Expenditure for police purposes is left out of account in computing normal expenditure (subcl. (7)).

Clause 7 enables the Minister to make a modifying scheme in relation to rate-deficiency grants if the provisions about that grant will not apply equitably to counties as respects expenditure for special county purposes.

Clause 8 makes special arrangements about London rate equalization amending s. 10 of the 1948 Act.

Clause 9 provides that as from 1959–60 industrial freight-transport hereditaments shall be re-rated to 50 *per cent.* of their net annual value and amends s. 68 (1) of the Local Government Act, 1929, which applied the de-rating measures.

Clauses 10 and 11 deal with the rating of showrooms belonging to Gas and Electricity Boards and the method of ascertaining the rateable value of Gas Board hereditaments respectively.

Clause 10 provides that with effect from March 31, 1959, a Gas or Electricity Board shall be liable to be rated for any shop " . . . used by the Board wholly or mainly for the sale display or demonstration of apparatus or accessories . . . " By subcl. (2) of cl. 10 in determining whether any place is wholly or mainly occupied and used as described above, use for the receipt of payments for gas or electricity consumed shall be disregarded.

Clause 11 places on the Minister a mandatory duty of certifying the amount estimated by him to be the aggregate of the net annual values on April 1, 1959, of all Gas Board hereditaments. The remainder of the clause deals with the

apportionment among rating areas of the adjusted basic total of rateable values of a Gas Board for the year 1959–60 and subsequent years. Besides this the clause amends the position under sch. 3 to the Rating and Valuation (Miscellaneous Provisions) Act, 1955, as respects "the standard number of therms" supplied by a Gas Board and other connected matters. Subclause (5) provides that the Minister may after consultation vary the amount of the basic total of rateable values if it appears to him that there has been a substantial change of circumstances.

Clause 12 abolishes after March 31, 1959, payments for the benefit of local authorities in lieu of rates made by the Electricity Council under part V of the Local Government Act, 1948.

After that date the Central Electricity Generating Board shall be treated for rating purposes as occupying a hereditament of a rateable value calculated in accordance with part I of sch. 2 to the Bill (subcl. (1) (a)). Similarly provision is made in this schedule for calculating the rateable values occupied by the Area boards under the Electricity Act, 1947. Under cl. 13 premises occupied by the Electricity Council are to be rated after March 31, 1959, notwithstanding part V of the Local Government Act, 1948.

Clause 14 obliges valuation officers to give rating authorities directions for alterations to be made to the valuation lists in force on April 1, 1959, following on the alterations under cls. 9, 10 and 13, *supra*. Rating authorities must give effect to such directions. Subclause (2) of this clause enables adjustments in respect of over-payments or under-payments consequent upon alterations in the valuation list. Subclause (3) deals with the procedure when premises cease to be exempted from rating under s. 85 of the Local Government Act, 1948, or s. 6 (2) of the Rating and Valuation (Miscellaneous Provisions) Act, 1955.

Clause 15 deals with transitional adjustments following the impact of part I of the Bill.

# ADMINISTRATIVE ABILITY

[CONTRIBUTED]

What are the qualities that make for a good administrator? Ask that question and, like as not, you'll get by way of reply a list of attributes that in sum total can identify no human being.

Tact, personality, drive, knowledge, common-sense, good temper: all the virtues fall off the tongue in profusion. When natural qualities are exhausted the well-worn maxims come tumbling out: ability to delegate, to keep everyone informed.

Few of the people who seriously utter much that is nonsense in this way seem to realize how guilty they are of circumlocution. What is really being said is that if anyone possesses these virtues in some measure—for surely no man can enjoy them all—then he may successfully cloak his ineptitude as an administrator. In other words: he will get away with it.

And, largely because of this muddled sort of thinking, very many so-called administrators are getting away with it.

The truth of the matter surely is that the well-endowed person will find the qualities with which he has been blessed to be of immense help in almost any walk of life. Personal attributes help alike the administrator and the academician, the teacher and the technologist, the scientist and the solicitor, for all people in their work and their play are social creatures, who owe much of their success or failure to their relationship one with another. Personality is like lubrication: it mitigates friction. But one thing at least should be crystal clear: personal qualities are not related to personal abilities. And thus the tyrant, the bully, the unreasonable, the unprepossessing, are creatures no less likely than others of possessing the magic touch of administrative ability.

What alone is relevant in this connexion is that, to make the most of abilities, one must have also what it takes to make friends and influence people.

The essential quality, surely, of an administrator is an aptitude—and the writer believes it to be an aptitude born in one—for achieving a stated aim with the least expenditure of time, labour and materials. It is as simple as that, and as rare as sun in summer.

The dilemma is this: the born administrator can only be identified in practice, and few human beings in whom the gift may reside have the opportunity of demonstrating them. One recalls the great men of history who might have had the gift in handsome measure, but it isn't always easy to know whether their achievements were feats of administrative genius or the inevitable consequence of plentiful resources. We may surmise that Earl Wavell with his slender Army of the Nile had administrative ability in rich quantity. But did Lord Montgomery display that precious gift at El Alamein and subsequently, or was his success determined as much by the advantage of overwhelming resources?

There we are again, where we began. Both these eminent soldiers were men of exceptional personality . . .

All this is important for a number of reasons. Administrators are as necessary as technologists in this modern world. And as a nation we seem short of both. The shortage of technologists is being recognized, and the curricula of our teaching establishments is to be given the appropriate bias. But the shortage of administrators is less widely appreciated, if admitted at all. Administrators are generally bureaucrats and all other things unloved. No one easily believes them to be necessary.

But unless we devise means of recognizing administrative ability where it exists we are not only wasting precious talent in the individual but are using natural resources expensively, misdirecting labour, and outpricing ourselves in the world's markets; or, within the sphere in which our readers are especially concerned, never ensuring that the income from rates is used to maximum effect. And when the talent has been identified and, as it were, isolated, we have yet to find the best means of teaching the techniques that can make more effective the gifts which nature has bestowed.

At present the method of selecting and training administrators in the public service is too arbitrary. The civil service believes that administrative ability emerges from an academic education. Local government accepts unquestionably that a flair for administration is born of professional training and, even more narrowly, that it is the prerogative of one profession only. One or the other system, such as either is, must be wrong; and it may be that neither one is the best. No one admittedly yet knows the answer, in this country or elsewhere, to the question: how best can we train our administrators? Something far more positive needs to be done.

# WEEKLY NOTES OF CASES

## COURT OF CRIMINAL APPEAL

(Before Lord Goddard, C.J., Gorman and Pearson, JJ.)

R. v. SOLOMON

Nov. 11, 1957

*Criminal Law—Trial—Jury—No jurors available—Praying of tales by clerk of the peace—Jury of* 12 *talesmen—Irregularity necessitating new trial.*

APPEAL against conviction.

The appellant was convicted at Brighton quarter sessions of larceny and was fined £50 and ordered to pay £25 costs. When he appeared for trial all the jurors who had been summoned the previous day had, through a misunderstanding, been released. The clerk of the peace then himself sent out and found 12 people who lived within the county borough of Brighton or the county of Sussex and placed them in the witness box. No objection was taken by the recorder or counsel.

*Held*: that there could not be a jury composed entirely of talesmen; if there was a complete absence of jurors, as in the present case, the proper course was to require the sheriff to impanel a fresh panel immediately; and, therefore, there had been a mistrial and the Court would order a *venire de novo* directing the appellant to be re-arrested and tried at the next Brighton quarter sessions.

Counsel: *Edward Clarke* and *Colin Wilson*, for the appellant; *Pensotti*, for the Crown.

Solicitors: *Hempsons; Town Clerk*, Brighton.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

# CORRESPONDENCE

*The Editor,*
*Justice of the Peace and*
*Local Government Review.*

DEAR SIR,

## MAGISTRATES' COURTS ACT, 1957

In response to your invitation contained on p. 704 of your issue of November 2, I enclose a note on the new procedure which I included in my Monthly Notes for members of the city bench circulated at the end of October.

Yours faithfully,
W. E. BLAKE CARN.

Justices' Clerk's Office,
Town Hall,
Leicester.

[We are grateful to Mr. Blake Carn for responding to our invitation in the Note of the Week at p. 704, *ante*, for comments on the procedure under the Magistrates' Courts Act, 1957. We print his comments below.]

"Attempts to work the new procedure permitting defendants to plead guilty by post have not, so far, been very successful partly owing to the attitude of the defendants themselves. Some return the forms sent to them unsigned, others sign the forms without indicating that they wish to plead guilty; one did all required of him but spoilt the effect by presenting himself in court! The best effort was by a foreigner, a Mr. Z, who being charged with carrying a passenger on his motor cycle whilst holding a provisional licence, persuaded a friend, Mr. G. N., to write on his behalf as follows:

'Dear Sir,

'I have received yours Summons with a same to my self. As I am unable to Attend the Court I Enclose my Statement.

'Being a Foreigner and Live in these Country nearly Ten years I Should know much better the law by now.

'But the Realy True is I was positive that the new Law will be Valid Only by the First of October. Up to thise time Provisional Licence have a same Right to take a Passenger in Car and in Motor Bicycle.

'But as it Proved I was wrong.

'As Mr. Z concern I was Quite sur He is by no mean any Danger to the Public, and I know Him for a long time as a very Steady and Safe Driver.

'If I am not sure with these I never would seat on the Bicycle, as a Passenger, Becouse I like to live very long Life.

'I am very sorry that I brake the Law, and I consider my self Quilty for the above Offence.

'Once again I am very sorry, bat as thise was a first Time, and with the Hope, that it never will Hapend again,

I remain,
Yours sincerely,
(Sgd.) G.N.'"

*The Editor,*
*Justice of the Peace and*
*Local Government Review.*

DEAR SIR,

## COURT ACCOMMODATION

I do not wish to embark on correspondence relating to parochial rivalry, but your note in this week's issue should be corrected.

I do not know if Slough is the busiest petty sessional division in the country, but in Wisbech one of the two benches sitting in the new Court House dealt with 80 cases in one day last week and with 58 cases in one day this week.

This new building was opened on April 25, 1957, by the Master of the Rolls, and is presumably the first building in the country designed to accommodate county courts and magistrates' courts for not one, but two, petty sessional divisions, as well as two courts of quarter sessions and divisional police headquarters.

In addition to the provision for members of the public which is apparently provided at Slough, this court also includes public telephone boxes as well as a separate telephone with coin box in the advocates' room. There are also two separate waiting rooms for the juvenile court, one having been designed solely for children in custody.

Perhaps, therefore, there is nothing so very special or unusual about the new building in Slough.

Yours faithfully,
R. F. G. THURLOW,
Clerk of the Peace for the Isle of Ely.

County Hall,
March, Cambs.
November 2, 1957.

*The Editor,*
*Justice of the Peace and*
*Local Government Review.*

DEAR SIR,

## LATIN, QUEEN OF TONGUES

The writer of this article need not despair.

If he has time to visit any big monastic house in this country or abroad, or better still to visit either the Vatican or the Gregorian University in Rome, he will find that Latin is in daily and practical use in the business and affairs of these establishments. Nor is the English Cockney pronunciation used.

Yours truly,
T. H. E. EDWARDS.

2–4 Orchard Gardens,
Teignmouth.

# ADDITIONS TO COMMISSIONS

### GLAMORGAN COUNTY

John Nathaniel Bale, 78 Edward Street, Alltwen, Pontardawe.
Fred Thomas Dewey, 15 Augusta Road, Penarth.
John Elwyn Evans, White Heather, Glenboi, Mountain Ash.
Percival Holyoake Ford, Bryngwyn, Hillside Park, Bargoed.
Llandudno.
David John Lewis, 37, Bridge Road, Cwmbach, Aberdare.

### SWINDON BOROUGH

Cyril Henry Cripps, 18 Bath Road, Swindon, Wilts.
Frederick Charles Grahame Hill, Graenar, Okus, Swindon, Wilts.
Gilbert Henry King, 12 Ash Grove, Pinehurst, Swindon.
Jack Oliver Maisey, 623 Cricklade Road, Swindon, Wilts.

### WILTS. COUNTY

Mrs. Enid Lilah Gwendolen Aylard, The Woodlands, Wootton Bassett.
Mrs. Mary Lilian Tyler, Alkerton House, High Street, Cricklade.

# THE REN C

By P. T. S, L

*A practical guide to the issue and cancellation of Certificates o ir, a*

References are to the First Schedule to the Act, Part II. The forms are escrib

**Preliminary Notes** THE STANDARD. A Certificate of Disrepair can issue only for unreasonable disrepair, not unsuitability for occupation. A Certificate may issue if the dwelling or any part thereof is in disrepair (not defined) by reason of defects and that all or any of those defects ought reasonably to be remedied, having due regard to the age, character and locality of the dwelling (para. 4 (2)). Where a dwelling forms part of premises in common ownership, disrepair of part of the premises which may result in disrepair of the dwelling, or disrepair of stairway or approach, is treated as of the dwelling (para. 13).

**Stages**

Tenant notifies landlord of defects of repair (Form G. (para. 3)).

Tenant can apply whether or not notice of increase has been served. Lan not a

**A.**

1. An undertaking (Form H) is not given to tenant within six weeks of the service of Form G.
2. Tenant applies to Local Authority on Form I for Certificate of Disrepair (*see* Footnote 3):
   (i) Giving a copy of Form G.
   (ii) Paying 2*s.* 6*d.*
   (iii) Stating the contractual and statutory position as to liability for internal decorative repair.

   If not stated to contrary local authority is to assume that landlord is not responsible for internal decorative repair (para. Loc obligations of the tenancy or origin of defects (para. 4 (4)). Only defects shown on Form G may be included on the Ce (para.
3. Public Health Inspectors inspect. Put to Committee. Resolution in form:—

   " *THAT if at the expiry of three weeks from notification to the landlord that the Council propose to issue a Certificat epair ( to remedy the defects now mentioned and* (*b*) *the Medical Officer of Health is not satisfied that such defects have be ied, a that if the undertaking so given may be disregarded by the Council under para. 5 of the First Schedule to the Rent T, the n*
4. Issue of Form J (para. 5) (*see* Footnote 3).

**C.**

1. An undertaking is not given within three weeks of service of Form J and the local authority is not satisfied that the defects have been remedied (para. 5).
2. Local authority issue Certificate of Disrepair (Form L) and give copy to landlord (para. 14) (*see* Footnote 3). Against the issue or refusal to issue Form L, landlord or tenant can appeal to county court (para. 4 (3 and 5).
3. Landlord may apply for cancellation of Form L on payment of 2*s.* 6*d.* Application on Form M (para. 6).
4. Issue of Form N (para. 6 (1)).

D. 1

2.

**E.**

1. Tenant objects within three weeks of service of Form N (para. 6 (2)). Informal or written objection would suffice.
2. Public Health Inspectors inspect. Put to Committee (para. 6 (1)). Cancellation only if defects specified in Form L are entirely remedied.
3. Informal notification of cancellation to both landlord and tenant.

**F.**

1. No objection received within three weeks of service of Form N.
2. Put to Committee in order to minute cancellation (para. 6 (2)).
3. Informal note of cancellation to landlord and tenant. *See* E (3)

   NOTE—Having regard to the wording of para. 6 (2) *quaere* whether inspection should not be made as in E (2) even though no objection received.

**E. and F.** 4. Either landlord or tenant may appeal to county court against refusal to cancel or cancellation (para. 6 (3 and 4)).

3.

4.

5.

*Footnotes*

1. The 2*s.* 6*d.* which must accompany Forms I and O may, if paid on application by a tenant, be recovered from subsequent rent should Forms L or P issue to the effect that defects exist or remain (para. 12 (1)), or in the case of Form I if Form K is given and defects remain unremedied six months thereafter (para. 8 (1)).
2. Under para. 5 Form K may be disregarded if:
   (*a*) A previous Certificate of Disrepair under the Act has been issued against the landlord in respect of the dwelling or any part thereof, or
   (*b*) The landlord has previously become liable under s. 10 (3) of the Housing Act, 1936, as the person having control of the dwelling or of any premises comprising the dwelling, to repay to the local authority (within the meaning of that section) any expenses incurred by them under that section, or
   (*c*) The landlord has previously given an undertaking under the First Schedule to the Act (*i.e.*, Form H or K) in respect of the dwelling, or any other dwelling in the area of the local authority, and any of the defects to which that undertaking related remained unremedied on the expiration of six months from the giving thereof, or
   (*d*) The landlord has previously been convicted of an offence under s. 95 of the Public Health Act, 1936, of failing to comply with, or contravening, a Nuisance Order or an offence under para. 12 of the Fifth Schedule to the Public Health (London) Act, 1936, of failing to comply with an Abatement Order or contravening a Prohibition Order or a Closing Order.
3. The landlord is the original landlord or any person from time to time deriving title under him (Act of 1920, applied by s. 19 (1) of the 1954 Act and s. 25 (1) of the Act). The tenant must fill in the name of the landlord on Form I, even though Form G has been served on the landlord's agent (under para. 24, 6th Schedule), since (*a*) the local authority cannot serve either Form J or the copy of Form L except on the landlord (*see* s. 7 (5) of the Rent (etc.) Act, 1938), and (*b*) the landlord's identity must be known in connexion with para. 5 (*see* D.2. and Note 2 above).

# RENT ACT, 1957

By P. T. S, LL.B.

*rtificates of ir, and the issue of Certificates as to the remedying of defects.*

forms are scribed by the Rent Restrictions Regulations, 1957 (S.I. 1957, No. 981).

THE LOCAL AUTHORITY for the purposes of the Act is the council of the county borough, county district or metropolitan borough in which the premises are situated, or, in the case of premises in the City, the Common Council of the City of London (s. 25 (1) of the Act and s. 49 (1) of the Housing Repairs and Rents Act, 1954).

DECONTROLLED DWELLINGS cannot be the subject of Certificates (para. 16).

DELEGATION of the powers of the Local Authority to a Committee under s. 85 of the Local Government Act, 1933, is not excluded by the Act. In the stages below such delegation is assumed.

3)).

rved. Lan not apply for Certificate of remedying of defects (Form P) at this stage (para. 8 (2)).

(para. 4 (1)).
(para. 12 (1)).
(para. 11 (2)).

epair (par Local authority is not otherwise concerned with on the Ce (para. 4 (2)).

*Certificat epair (a) the landlord has not given an undertaking ts have be ied, a Certificate of Disrepair be issued: provided the Rent A , the matter shall be considered further.*"

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D. 1. An undertaking in Form K is given to tenant (copy to local authority) within three weeks of the service of Form J (para. 5).

2. This may be disregarded under para. 5 (*a–d*) (*See* Footnote 2). If the landlord is caught by para. 5 put to Committee for consideration. Resolution in form either

"*THAT notwithstanding the provisions of para. 5 of the First Schedule to the Rent Act, 1957, the undertaking furnished by the landlord of be accepted*"

in which case, *see* 4 and 5 below.

or

"*THAT having regard to the provisions of para. 5 of the First Schedule to the Rent Act, 1957, the undertaking furnished by the landlord of be not accepted and a Certificate of Disrepair be issued in respect of the premises unless the Medical Officer of Health is satisfied that the defects to which the undertaking relates have been remedied*"

following which

3. Certificate of Disrepair (Form L) issued. For subsequent procedures, *see* C (3), etc.

4. If undertaking not disregarded—at expiration of six months from the giving of Form K the same consequences follow as if a Certificate of Disrepair had issued at the expiration of that six month period and continued in force until the defects remedied (para. 8 (1)).

5. Landlord or tenant may at any time apply to local authority on Form O for Form P (para. 8 (2)). *See* B (3), etc.

B. 1. An undertaking is given to tenant on Form H within six weeks of the service of Form G (para. 4 (1)).

2. At the end of six months from the giving of Form H, if the undertaking has not been complied with the same consequences follow as if a Certificate of Disrepair had been applied for when Form H was given and had issued at the end of that six month period (para. 8 (1)).

3. At any time after the giving of an undertaking in Form H or K either landlord or tenant may apply to the local authority on Form O (paying 2*s.* 6*d.*) for a Certificate as to whether any of the defects to which the undertaking relates have not been remedied and if so which (para. 8 (2)).

4. Public Health Inspectors inspect. Put to Committee. Resolution in form:

"*THAT a certificate be issued declaring that the defects specified in an undertaking dated in respect of* (*have been remedied*) (*have not been remedied*) (*have been remedied with the exception of the defects now mentioned*)."

5. Issue of Form P. There is no appeal against this Certificate, which is in proceedings evidence only until the contrary is proved of the matters certified (para. 8 (3)).

NOTE—In the case of an undertaking in Form H defects may have been included which are not relevant to the reasonable repair of the dwelling. It seems best in practice to omit reference to these defects in Form P, even though they have not been remedied, and to treat the words "undertaking relates" as meaning "undertaking properly relates" (para. 8 (2)).

[The writer is obliged to Mr. A. F. PARSONS, LL.B., Solicitor, for his reading this article before publication, and for his suggestions.]

# MISCELLANEOUS INFORMATION

## TEN YEARS OF LOCAL GOVERNMENT IN MANCHESTER

The latest estimate of the population of Manchester is 686,000, and the declining trend of recent years is thus continued. On the other hand expenditure continues its increase, in consequence of rising costs and extensions of services. City treasurer Mr. H. R. Page, M.A. (Admin.), F.I.M.T.A., points out in a memorandum prefacing his 10-year financial summary that such increases have not only offset all the substantial savings following the post-war re-shuffle of services but by 1956–57 had added £3½ million to the rate-borne expenditure as compared with that for 1947–48. But this burden is not quite as onerous as it appears as is shown by Mr. Page in a useful diagram comparing the growth of industrial earnings with the rise in public expenditure. Taking 1949–50 as 100 the indices for 1956–57 are as follows:

| | |
|---|---|
| Rate Expenditure ... ... ... ... | 161 |
| Expenditure from Rates and Grants ... ... | 177 |
| Retail Prices ... ... ... ... ... | 141 |
| Industrial Earnings ... ... ... ... | 162 |

These figures show that public expenditure has not risen a great deal more than prices generally: nevertheless some may regard them as evidence that a measure of restriction on local government expenditure is justified.

Rates of 18*s.* met 56 *per cent.* of total expenditure, a smaller proportion than in 1949–50 but a much larger share than falls on a great many authorities.

Net loan debt of £120 per head of population (total £82 million) has doubled in nine years: the largest absolute increases are for housing and waterworks, but the largest relative increase is for education. Average rate of interest at March 31 was £3 14*s.* 5*d. per cent.* It is the practice of the corporation to levy a rate of sixpence to meet small items of capital expenditure: if the whole produce of the rate should not be required for this purpose the balance is applied in redemption of debt.

In addition to waterworks the corporation owns markets and transport undertakings. The markets department has made contributions in aid of rates for each of the past 10 years including a regular figure of £15,000 for each of the last six. The transport and water undertakings, particularly the latter, have experienced vicissitudes but have strong reserves.

The corporation has had no less than 53,600 houses built producing net rents of £1,923,000 per annum. Public subsidies to the tenants cost over £1 million annually, of which the ratepayers provide £310,000 equal to a rate of nearly 7*d.*

Excellent tables are given for each service summarizing essential particulars, including unit costs. The whole publication is a most useful work of reference not only to members of the Manchester city council but to all students of local government. We congratulate Mr. Eric Mendell, J.P., chairman of the finance committee, and Mr. Page on the production.

## ANNUAL REPORTS, ETC.

**Urmston.** We have commented before upon the excellent pioneering work carried out in the field of public relations by the medium-sized Urmston U.D.C. in publishing annual reports of their council's work. This year, we see the 21st of such annual reports which is indeed a matter for congratulation. The report is remarkably comprehensive, and even includes the number of persons who, for example, were admitted to dances sponsored by the council. The number of admissions, by the way, both to dances and to the baths, show a marked drop on the year. Unfortunately a loss of £1,100 was sustained on the Urmston Show—the bulk of which had to be met by the council as guarantors. Not surprisingly, although the council reaffirm their support and sponsorship, they have revised their policy to limit their liability. The district heating scheme is stated to have worked reasonably satisfactorily.

**Guildford.** It is 700 years since Guildford received its first known charter and " Guildford and its Government " is a publication written by Mr. Herbert C. Weller, LL.B., the town clerk and clerk of the peace, mainly for council members, on the history of the town and of its system of administration. The idea behind such a booklet is very good, and would assuredly be found both interesting and instructive, especially by new members, as well as helpful to the local press, ratepayers' associations, etc.

**Wanstead and Woodford.** Perhaps the most comprehensive annual report by a borough we have ever seen, this report (the seventh) extends to 83 pages. The comprehensive nature of the report is demonstrated by the fact that three index pages are necessary to list all the main headings dealt with. Yet although mention of an index gives a formal air to the report—it is by no means " stuffily " written—in fact, it is very readable. Not surprising, however, is the fact that the council feel obliged to make a charge of 2*s.* per copy, plus 6*d.* for postage.

**Henley R.D.C.** This is a report of a relatively small rural district, and naturally in much smaller compass than that for Wanstead and Woodford. Yet it serves precisely the same purpose, although the method of presentation is different. Here, each committee has a separate allocation of space in the report.

**Glamorgan County Council.** The county council of Glamorgan publish a guide to the services of the county council. This makes interesting reading: the employees of the county council for example, number more than 16,000, who are organized into 12 departments. The chairman of the county council in a foreword, uses a phrase we have not heard before, although there have been many variations on the theme, in describing the activities of the council—when he says there is scarcely a facet of life, from the pre-natal to the post-mortem, untouched by the council's activities. He hopes this booklet will stimulate interest in the council, and the desire of members of the public to take part in its activities.

## CITY OF SHEFFIELD: CHIEF CONSTABLE'S REPORT FOR 1956

Presumably because of strong competition from industry, the police force in Sheffield has experienced considerable difficulty in the past few years in attracting an adequate number of recruits. The force started 1956 with 136 vacancies, its authorized establishment being 800. During 1956 there was, for the first time since 1952, an increase in actual strength and on December 31 the total was 690, leaving 110 vacancies. The chief constable is able to report that the 75 recruits obtained were of a high standard and also that there was a substantial reduction in wastage during the year, only 24 young men leaving the force by resignation compared with 48 in 1955.

Of the special constabulary the chief constable says that " their value to chief officers of police springs in the main from their availability for duty at short notice, and should never be measured by the actual number of duties they are called upon to perform." The existence of this reserve to fill a gap at short notice in an emergency must save many headaches for senior officers who are trying to fill a quart pot of duties with a pint of men.

The cadet force remains at full strength, and gratitude is expressed to the Director of Education for including the police service in the curriculum for the careers information evenings arranged annually for senior pupils in the city grammar and technical schools.

Recorded crimes in 1956 numbered 4,430. The 1955 figure was 4,751. The main decrease was 534 in minor larcenies, but there were increases of 43 in offences against the person and of 160 in offences against property. Two thousand five hundred and four crimes were detected. In referring to the increase in sexual offences the report records that indecent asaults on females increased from 71 in 1955 to 110 in 1956 and accounted, in 1956, for 57 *per cent.* of all the sexual offences reported during the year.

No less than 307 motor vehicles were taken and driven away without the owners' consent, but prevalent though this offence is, it seems impossible to persuade owners and drivers to lock their car doors and to remove the ignition key from the switch. It is difficult to determine whether this is due to stupidity, forgetfulness, carelessness or even laziness, but it seems to be a habit which is not peculiar to Sheffield.

Juveniles were responsible for 901 indictable offences, 137 more than in 1955, but charges were preferred in respect of only 619 of these, involving 270 juveniles. Two hundred and seventy-four other juveniles were cautioned by a senior police officer. This seems to be a high proportion of cautions, but no doubt the chief constable was satisfied that there were good grounds for this course of action. The total number of persons prosecuted for indictable offences was 1,100, 100 fewer than in 1955. A further 16 adolescents and 51 adults were cautioned.

There were also a large number of cautions for non-indictable offences. Three thousand two hundred and forty persons were

cautioned in respect of 3,435 motoring offences and 784 others in respect of 893 other summary offences. Altogether 7,904 persons were reported for motoring offences and 4,664 were prosecuted. Fifty-one persons were charged with driving, or being "in charge," while under the influence of drink, 12 more than in 1955. In the magistrates' court 46 were convicted and three cases were dismissed. Of the two who claimed the right to be tried by a jury, one was convicted. There was a very large increase in the number of speed prosecutions, 1,410 persons being reported for such offences and 1,363 being prosecuted. The number reported was 652 greater than in 1955.

An offence which must nearly always be of a serious nature is that of assaulting a police officer in the execution of his duty. Such offences led to 58 prosecutions in 1956, compared with 33 in 1955. All those charged were convicted.

The report gives figures showing a steady increase in the number of charges of drunkenness, from 100 in 1946 to 702 in 1956. It is apparent, says the chief constable, that some licensees and persons in charge of clubs are still neglecting their duty by allowing customers to become the worse for drink.

## WESTMORLAND MAGISTRATES

Nearly 50 magistrates from all parts of Westmorland attended the autumn conference of the Westmorland Magistrates' Courts Committee at Kendal recently.

Mr. H. C. Wilson, chairman of the committee and of the Kendal Ward Bench, presided. At the morning session, Mr. J. P. Wilson, clerk to the Sunderland county borough justices, and joint editor of *Stone*, spoke on the licensing authorities' part in the administration of the country. In the afternoon, Dr. J. P. Child, physician superintendent of St. Nicholas Hospital, Gosforth, Newcastle-on-Tyne, spoke under the chairmanship of Mrs. G. N. Pattinson, Windermere branch chairman, on law and practice relating to mental illness and mental deficiency.

Mr. Wilson said governments would not dream of putting licensing under government control because it was such a tricky, delicate and thorny problem, but the fact that there were so few complaints about the way it was handled showed that the licensing justices were carrying out their work satisfactorily. On the subject of extensions of permitted hours, he recommended the system practised in his own district of limiting extensions to one hour before the finish of such functions as dances or reunion dinners, giving guests time to quieten down before they got into their cars to drive home.

## BEDFORDSHIRE WEIGHTS AND MEASURES DEPARTMENT

In his report for 1955–56 (*see* 120 J.P.N. 808) Mr. E. K. Udy, chief inspector to the Bedfordshire county council, referred to an arrangement under which in certain circumstances an inspector of one county might act in another. In the current year's report he returns to the subject. Following negotiations, the inspectors now possess warrants entitling them to act within the areas of Buckinghamshire, Cambridgeshire, Huntingdonshire and Northamptonshire county councils, and also within the boroughs of Bedford and Luton, when investigating suspected contraventions. Reciprocal powers have also been granted to the inspectors of those authorities. It is felt that this will assist materially in the investigation and detection of offences.

The duties of an inspector are in great variety and are not always carried on in ordinary working hours. For instance the re-verification of a 40-*ton* capacity rail weighbridge in use at a cement works was carried out at midnight on a Sunday evening after repairs had been effected, in order not to hold up the following day's production at the works.

The introduction of complicated machinery has inevitably meant that inspectors are sometimes involved in lengthy visits of inspection or verification. In some cases says the report, two or three days can be spent on a single visit such as inspections at factory premises where large numbers of complicated weighing machines are found, whilst the time spent testing an individual appliance can vary considerably when one considers that they can range from a yard measure in a small draper's shop to a multi-unit egg grading machine at an egg packing station involving sometimes over 500 test weighings. Visits are not always made to shops, factories and similar premises, but include also vehicles on the highway. Advertisements in local newspapers have also been examined to ensure that such transactions, often not carried out from normal trading premises, are being conducted without prejudice to regular traders.

Some of the tests made by the inspectors have been at the request of the owners of appliances and on payment of expenses. These have varied from the testing of a special 90-*ton* capacity weighbridge installation for weighing large aeroplanes, to the testing of milk production recording equipment.

It is pleasant to read of an area in which the position as to solid fuel is so satisfactory. The total number of deficiencies disclosed represent less than ¼ of one *per cent.* of the total weighed.

## THE NUFFIELD FOUNDATION

### Report for year ended March 31, 1957

The twelfth report of the Nuffield Foundation continues the story of what the Foundation has attempted, of the ideas which have interested it, and of the men and women given help to promote those ideas in the hope that thereby in due time the health and well-being of mankind might be advanced. The scope of the grants made by the Foundation is divided broadly into biological and other scientific research ; medicine ; social research and experiment and education; and the care of old people and research in ageing. The income of the Foundation for the year amounted to just over £1,000,000. Of its work in the Commonwealth two examples may be quoted: grants to encourage the training of teachers of English in India and the training of the blind in Africa.

In the sphere of medicine, rheumatism is the one specific disease in which special interest has been taken. Grants have also been made into the application of physiological tests for mental patients and for the treatment of mongolism. A study of more general interest is into the industrial health service which is being conducted at the Central Middlesex Hospital, where a third of the casualty cases are of persons injured at work. The aim of the study is to encourage a preventive approach to accidents and disease. It is hoped that, later, an industrial-hygiene team will advise employers on risks to health in their factories. Another study which is of special interest is the continuation of the "thousand family survey" at Newcastle-upon-Tyne which was initiated in 1947 by Sir James Spence, then professor of child health in the University of Durham. The department is still in touch with about 800 of the original 1,142 families. Eventually a further report will be compiled giving an account of the illnesses, and the health of children as seen in this urban community. It is thought that this should provide a valuable historical and social record.

*Social Research*

In the section of the report on Social Research an account is given of the scope of an investigation into citizenship in the new towns. Many families there come from the poorer parts of big cities and the amenities they find are unfamiliar. Community buildings, children's playgrounds, shrubs, trees and grass verges are treated by some of the new-comers with little respect. Indeed, sometimes wilful damage is done to them. The extent of the damage varies from one area to another and the reasons for it are not fully understood. It is even uncertain whether adolescents or very young children are the chief culprits. Dr. James Mackintosh, who recently retired from the chair of public health in the University of London, is inquiring into these problems. He is also studying the methods of education in citizenship of children, adolescents, and their parents, provided by official and unofficial bodies.

An interesting small scheme for the occupation of children is that which has been established in the so-called "shanty town" at Grimsby by the "Adventure Playground Association." This was formed on the idea that children would respond in a social way to opportunities for constructive activity. A playground was provided and soon became attended by large numbers of children who developed into a "community" with its own hospital, fire department, police station and hotel. With the help of a grant from the Foundation a large hut was opened for winter activity for which the children accepted responsibility. The community spirit shown by the children developed beyond the confines of the playground, and during the winter months they embarked on a scheme to assist old age pensioners with sawn logs for fuel. While many of the children who use the playground were once regarded as "unclubbable," the association is able to report that they continue to attend regularly in large numbers and that constructive activity and social consciousness remain features of life in "shanty town." This is a scheme which would be worth copying elsewhere.

Another study into family and child problems is at Shoreditch. This is concerned with helping families which appear to be in danger of breakdown but to enable them to avoid the stage of difficulty which calls for the work of a family service unit.

A study of an entirely different kind, and which shows the diversity of the activities of the Foundation, is into the way in

which local authorities organize their building construction and maintenance. This investigation is being undertaken by the Royal Institute of Public Administration in a number of areas. It is felt that if it is successful, it may lead to further studies along similar lines, for very little of the extensive literature on local government deals with the major problems of internal organization and management. The Foundation has made a grant to help the Institute to carry out this project.

Local authorities which are concerned with blind welfare will be interested to know that the Foundation has made a grant to the Guide Dogs for the Blind Association to help in the establishment of a training centre in the north of England. There are at present only two centres, one at Exeter and one at Leamington Spa, where guide dogs and their future owners are trained by specially qualified staffs. The centres also provide an after-care service for 480 blind people in various parts of the British Isles, whose dogs were trained by the association.

*Care of Old People and Research in Ageing*

Most of the work done by the Foundation in furthering the care of old people is undertaken by the National Corporation for the Care of Old People which is financed by the Foundation. Research in ageing is, however, sponsored by the Foundation direct. A few years ago the Foundation financed a two-year study of old people and their family relationships in Bethnal Green by Mr. Peter Townsend. His findings and suggestions will be published shortly. His research shows that much remains to be done to complete our understanding of the social process of ageing in modern society. The Foundation has given a further grant to Mr. Townsend to enable him to study the institutional care of old people: the reasons for admission to institutions, and the social life of institutions. To make a start on assessing institutions in sociological terms Mr. Townsend intends to spend some time in several old people's homes. This will enable him to get an intimate knowledge of the social life there, of administrative procedure and of the advantages and disadvantages of different social and occupational activities. The family and other social characteristics of elderly people admitted will be considered in detail.

## COUNTY BOROUGH OF WOLVERHAMPTON: CHIEF CONSTABLE'S REPORT FOR 1956

Although there was a net gain to the force during the year of five, the chief constable states that the strength of the force is inadequate to perform satisfactorily the many duties which it has to undertake. He estimates that an extra 24 men would be required to reduce the working hours to 44 per week. Moreover, Wolverhampton has one constable to 697 of the population whereas the average for all city and borough forces in England and Wales is one to 545. He adds, " the plain fact is that we are not succeeding in our primary duty of preventing crime and offences to anything like the extent which affords proper protection to the public . . . we must not allow ourselves to accept upwards of 2,000 crimes a year and an almost equal number of road accidents as normal for Wolverhampton."

The chief constable comments on the number of candidates for the force who failed to pass the education test. He says that the test is not a fanciful one, but a practical one designed to ensure that the candidate has the intelligence and educational standard essential for a police officer's work. One who cannot express himself clearly, accurately and precisely in writing is useless for police work. Perhaps modern educational methods are not as superior to the old fashioned ones as some of their exponents like to think that they are.

The courtesy patrols had a busy year. Two hundred and nine reports of offences were submitted, 1,906 warnings were given and 1,056 were given advice. One thousand eight hundred and seventy motoring offences were committed by 1,446 offenders. The total number of persons prosecuted for summary offences were 2,413. One thousand five hundred and seventy-one others were cautioned.

In the part of the report dealing with traffic the chief constable records that a Waiting Restrictions Order has at last received official approval and will receive ministerial sanction as soon as the necessary signs are ready to be erected. He hopes that road users will accept and observe the order which is intended to ensure the greatest benefit for the greatest number of people. This must mean that some people will not enjoy all the convenience that they have had in the past. There will, for example, be strict time limits on car parks. The chief constable does not wish to have to resort to prosecutions to enforce the order. Clearly, however, if motorists will not play fair, only prosecution will induce them to obey the order, which will lose its effect if it can be disobeyed with impunity.

Nineteen fifty-six saw, unfortunately, an increase in the number of recorded crimes. The total was 1,807 compared with figures for the three preceding years of 1,517, 1,649 and 1,838 respectively. Nineteen fifty-six, therefore, is almost back to 1953. Particulars are given of the main increases. Unnatural offences increased from one in 1955 to 17, housebreaking from 49 to 84, shopbreaking from 100 to 168, larceny from motor vehicles from 159 to 204. Two hundred and ninety offences were traced to juveniles (252 in 1955) but the number of juvenile offenders fell from 190 to 177. Of these 120 were not previously known to the police, and only 46 had been previously dealt with by a court.

The total number of accidents known to the police was 1,858, which was 20 more than in 1955. Nine hundred and twelve persons were killed and injured in Wolverhampton. The appalling figure of 267,960 is the total for the whole country. Of these 5,367 were killed. Only 18 of the 1,858 accidents in Wolverhampton were judged to have been caused by dogs. This is a much smaller proportion than that recorded in reports from other forces. Of the provision in the Road Traffic Act, 1956, which allows local authorities to prescribe streets where dogs must be kept on leads the chief constable remarks, " the aim of this is accident prevention, of course, but it remains to be seen how it can be applied in practice."

There have been many pleas from parents for more school crossing patrols, but it is pointed out that parents must remember that there is no real substitute for safety training for children old enough to learn or for the older escort for children who are too young to be safe alone on the roads. Dangers exist everywhere on the roads; the crossing patrols can guard only selected spots.

## ROAD CASUALTIES—SEPTEMBER 1957

Casualties among children on the roads were fewer in September this year than in the same month of 1956, but there were many more accidents to adults, particularly drivers.

Figures issued on November 1 show that 490 people were killed on the roads of Great Britain, an increase of 16 over the figures for September, 1956. The seriously injured numbered 5,701, an increase of 107; and the slightly injured 18,433, an increase of 518; making a total for all casualties of 24,624.

Child casualties fell by 805 to 3,759, a decrease of nearly 18 *per cent.* Fifty children were killed, compared with 63 a year ago; and 754 seriously injured, a decrease of 181. All groups of children—pedestrians, pedal cyclists and passengers—shared in this improvement.

Casualties to motor cyclists and their passengers continued to show an increase and the total of 6,429 was 467 more than in September last year. There was, however, a slight reduction in fatalities—112 compared with 120 a year ago.

Figures for drivers and their passengers which in August had shown some improvement on last year, increased by 744 to 8,749. They included 120 deaths, an increase of 20.

The Road Research Laboratory estimate that traffic was about 3½ *per cent.* heavier than in September, 1956. The increase in casualties to motor cyclists may be partly accounted for by the fact that there were 147,000 more motor-cycles licensed than at the same time last year.

Casualties in the first nine months of the year totalled 201,271, a decrease of 298 over the figures for the same period of last year. Included in this total are 3,813 deaths, a decrease of 132.

## NORTHERN IRELAND PROBATION REPORT

The number of persons on probation in this area for the year ended December 31, 1956, shows an overall increase of 50, as compared with the previous year; but the senior probation officer, Mr. Duke, considers that this indicates a more general use of probation rather than an increase in delinquency.

The report contains some interesting information on the development of the probation services in this very large area. It appears that for a long time the few officers had to cope with very primitive conditions as regards accommodation and office equipment. Gradually matters improved, and the report pays tribute to the Home Office Training Course for its work in securing a higher general standard, and in bringing the probation officers of Northern Ireland into touch with activities in England.

In 1947 the number placed on probation was 600; in 1956 the figure had become 1,329. Mr. Duke claims that 85 *per cent.* of those placed on probation never appear before a court again. This is a large claim. But the tabulated statistics appended to the report certainly show that probation works pretty successfully in this area. One remembers that—Belfast excepted—large towns are not conspicuous in Northern Ireland. There is little doubt that urban agglomeration bears a heavy responsibility, not only for initial crime but also for recidivism.

A good deal of liaison work with English and Scottish officers falls to the Northern Ireland service. A flood of thought is released in the reader by the calm statement that " a number of unmarried expectant mothers cross to England for the birth of their babies, and . . . return home leaving the children to be adopted later."

Then again, we learn that " the majority of the probation cases transferred to Northern Ireland are in respect of young men who went to England to seek employment, and fell in with bad company and got into trouble ; others were earning good money but gambling and drink were the cause of their downfall."

It will be apparent from these extracts that the emphasis in this report is laid upon age-old human problems ; the tone is down-to-earth, and speculative analysis is absent—a welcome change from so much discussion of crime and criminals. Have we not tended to complicate the pattern of good and evil ?

### BERKSHIRE FINANCES, 1956–57

When economies in local government are mooted the questing eye of the axe-swinger usually falls first on administrative costs. In this preference he is reflecting the views of the majority of the citizens, as the results of a recent Wolverhampton questionnaire show: when 8,000 ratepayers of that borough were asked for ideas on rate-cutting 82 *per cent.* suggested a saving in administration expenses. The reports of certain O. & M. investigations suggest that the citizens may not be altogether wrong.

With this in mind we have noted with particular interest particulars of the administrative costs of the Berkshire county council as recorded in the abstract of the annual accounts prepared by county treasurer Mr. W. S. Hardacre, F.I.M.T.A., A.S.A.A. The figures are not at all excessive ; for instance, education administrative costs including appropriate proportions of the cost of central departments work out at less than three *per cent.* of total expenditure. The chairman of the Berkshire finance committee is Sir George Mowbray, Bart., K.B.E., one of the ablest and most enthusiastic of local government administrators, and with the support of county council members and officers every effort is constantly made to run Berkshire services on the highest level of efficiency and economy.

In 1956–57 the county council spent £6½ million of which £3¾ million was for education. Total expenditure was thus just under £20 per head of the population of 337,000: after government grants had met their share of the cost the charge to the ratepayers was £7 per head, met by a rate precept of 11*s.* 6*d.* The county council does not believe in maintaining large balances on revenue account: at March 31 last the total held was £174,000, £91,000 of which was tied up in stocks and stores.

A number of useful cost statements and unit costs are given for each of the county services: it is interesting on one of the smaller ones to see that the county library service costs 9*s.* 9*d.* per registered reader, or, putting it in another way, 4·7*d.* for each book issued.

The council runs a pool of cars for use by the staff.

There are 75 members of the council: their allowances for subsistence and travelling totalled £3,200 during the year, an average of £43 per member. The chairman of the county council receives an expense allowance of £210 annually.

Loan debt at March 31 last was £4¼ million, equal to £12 12*s.* per head of population. Interest averaged 4·1 *per cent.* at the same date.

The superannuation fund totals £1,700,000 and it is interesting to observe that it is the policy of the county council to invest wholly in outside securities.

Unlike some authorities the health services continue to grow, but in Berkshire there is a fairly rapid and continuous growth of population. About 10 *per cent.* of the cost of domestic help is recovered from users of the service.

# REVIEWS

**The Rent Act, 1957. By S. W. Magnus. London: Butterworth & Co. (Publishers) Ltd. Price 32s. 6d. net.**

We have already noticed several works explaining the Rent Act, 1957, for the benefit of members of particular professional institutions. Some larger textbooks also came into our hands before the subject of the present review, which have dealt with that Act for more general legal purposes, or even with that Act and connected parts of the earlier law on rent restriction. It is difficult as well as proverbially invidious to make comparisons, but certainly the present book by Mr. S. W. Magnus, with annotations to the Scottish provisions by Mr. R. A. Bennett of the Scottish Bar, seems likely to prove specially useful. The form is one which has become familiar in other works of the same scope, issued by the same publishers. It begins with a general introduction explaining the background to the Act and the provisions of the Act itself in narrative form. The Act itself is so complicated that a narrative exposition of the whole, before one studies sections in detail, seems likely to be especially valuable. The Act of 1957 is then taken part by part and section by section, and provided with full notes. Each of these contains explanatory cross-references to provisions of the earlier Rent Restriction Acts, and to other statutes such as the Housing Acts and Public Health Acts, where the old and new law have to be considered in relationship. This detailed treatment occupies rather more than half the book. There then comes an appendix giving the text of surviving provisions of the earlier Rent Restriction Acts, with notes. These last mentioned notes are not so full as those provided for the new Act, but we have checked them in several places, and found that they give quite adequate indication of the way the older Acts are affected by the new.

When it is mentioned that there are 15 of these earlier Acts in appendix I it will be seen how great a help it is to the busy practitioner, to be provided at this early stage with so complete a means of finding out what changes have been made.

Appendix II contains the relevant statutory instruments, which have been issued up to the time of going to press. The learned editor mentions in his preface that when the book was prepared the Bill for the Housing Act, 1957, was still before Parliament, so that the reader who has occasion to refer to any of the earlier Housing Acts mentioned in the notes must remember to adjust the references, now that the consolidating Act has become law. Apart from this the work is completely up to date.

At the cost of reiterating a remark which we have made in many previous reviews, we feel impelled to mention that the table of cases gives a complete apparatus of reference to all law reports and to the *English and Empire Digest*, in contrast with what is done in some other publications on the new Act, where the cases are not provided with this help to the practitioner.

The cost of 32*s*. 6*d*. is moderate, and lawyers who have already bought one of the books which were on the market earlier may (unless they have received the present work as part of Messrs. Butterworth's *Annotated Legislation Service*) think it worth while to add this also to their shelves. Those who are still without a textbook on this difficult new Act can be recommended not to wait longer, since this work will give all that they will need.

**Citizens Advice Notes. London: The National Council of Social Service, 26 Bedford Square, London, W.C.1. Initial charge £4 4s., subscription for supplements £2 per annum.**

This is a loose leaf publication with the sub-title *A Service of Information Compiled from Authoritative Sources*. The National Council of Social Service, from whom it may be obtained, have been good enough to supply us with a copy for review, and since we received it there have been two issues of supplementary pages. We mention this as indicating that everything is being done to keep the service up to date. Many of our readers are associated with citizens' advice bureaux in one way or another, and few can be unacquainted with the good work done, and the immense scope of the inquiries which have to be handled by the staffs of the bureaux. They are supplied for the purpose with notes upon a remarkable variety of topics, and it is the current collection of these notes which we have before us. We confess we should not have expected the citizens' advice bureaux to be interested in the age of retirement of recorders and stipendiary magistrates, or the White Paper of 1956 on the economic implications of full employment. We mention these topics at random because (we suppose) inquiries have actually been received upon them—otherwise there would have been no point in including answers in this compilation. Queries upon income tax, housing, and price regulation, are perhaps more natural, and there is almost as a matter of course a great deal about the position of children and married women, and the social services. These do not by any means exhaust the information given. One can find out what the law requires in the construction of a motor car, and where to make inquiries about supplies of coal. One can also discover how river pollution is prevented, and what Parliament has said about myxomatosis, and the handling of food.

We suppose the publication will be most useful to the staff in the bureaux, but we can imagine its being found quite handy also by the practising lawyer, and by the ordinary householder in pointing the way to answers to many queries which might otherwise involve a good deal of search. The arrangement is in alphabetical order of the main headings; a complete index is placed at the beginning.

## BOOKS AND PAPERS RECEIVED

Booklet. Abolish the Blasphemy Laws. R. S. W. Pollard. Society for the Abolition of the Blasphemy Laws, 40 Drury Lane, London, W.C.2. Price 6*d*. net.

The Yorkshire Ouse River Board—Seventh Statutory Annual Report. Clerk of the Board, 21 Park Square South, Leeds.

Mersey River Board—Sixth Annual Report. Clerk and Solicitor to the Board, Warrington.

Wear and Tees River Board—Seventh Annual Report. Clerk and Financial Officer to the Board, Darlington.

Marriage, Separation and Divorce. By H. B. Grant, M.A., Barrister-at-Law. Third edition. London. Stephens & Sons, Ltd., 119 and 120 Chancery Lane, W.C.2. Price 8*s*. 6*d*. net.

"Brother Lunatic." By Paul Warr. London: Neville Spearman, Ltd.

## NOTICES

### THE SOLICITORS' ARTICLED CLERKS' SOCIETY

**Activities for December**

Tuesday, 3: Any Questions Evening. At the Law Society's Hall at 7 *p.m.* Natter and Noggin, 6.30 *p.m.* Come and put your questions to a panel of Society members who will do their best to entertain and inform with their answers.

Friday, 6: Annual Dinner and Dance. At the Law Society's Hall at 6.45 *p.m.* Details have already been sent out. Remember to apply early.

Tuesday, 10: Debate. At the Law Society's Hall at 6.30 *p.m.* Natter and Noggin, 6 *p.m.* The motion to be debated is that "This House deplores the two main recommendations in the Wolfenden Report." It is hoped that there will be two guest speakers. A prize of £1 1*s*. will be awarded for the best speech of the evening A most interesting and lively debate is promised.

Tuesday, 17: Scottish Reels. At the Law Society's Hall at 6.30 *p.m.* Refreshments available.

Thursday, 19: Christmas Party. Master Pengelly and the Royal Courts of Justice Music Club are holding a Christmas Party in the Barristers' Dining Room at the Law Courts. There will be dancing, games and a running buffet. Commencing 7 *p.m.* A party of S.A.C.S. has gone in preceding years and have always had a thoroughly good time.

Tuesday, 31: New Year's Eve Dance. At the Royal Empire Society. Further details from Peter Wall at WAN 9411 (day).

**January**

Tuesday, 7: Skating Party. Meet Brian Wilson on the ice at the Queen's Club Ice Rink (new Queensway Tube) at 7. Spend the rest of the evening thawing out.

**Sports Diary**

Tuesday, 3: Squash v. King's College Hospital, Denmark Hill. Away—6.30 *p.m.*

Tuesday, 10: Squash v. London House. At Dominion Students' Hostel, Judd Street, W.C.1. At 6.30 *p.m.*

Wednesday, 11: Hockey v. Law Society Hockey Club. At 6.30 *p.m.*—Away fixture.

# THE WEEK IN PARLIAMENT

**From Our Lobby Correspondent**

On the Adjournment, Mr. Frederic Harris (Croydon, N.W.) raised the question of sexual murders of young children and suggested that the Home Office should establish without delay an institution where sexual offenders could be detained and treated by medical experts.

He recalled that on August 31 last a little girl of four years of age—Edwina Marguerite Taylor—was murdered in his constituency by Derek Edwardson, a man of 31 years, who also lived in his constituency, in St. Aubyn's Road, Upper Norwood. Edwardson had subsequently pleaded guilty to the murder. The murder of that child, who could not defend herself, was particularly horrible, the cause of death being a fractured skull and strangulation. Edwardson had admitted that he had enticed the girl to his flat and strangled her there.

That murder had not only caused great sorrow to the child's parents and to all connected with her, but it had outraged the feelings of all decent people in the country and, particularly, of his constituents. A Streatham housewife, herself the mother of two children, had launched a petition calling on the Government to establish an institution where sexual offenders against young children could be detained and treated. The response to her petition had been overwhelming and had by no means been confined to the locality. It was estimated that in the first week some 4,000 signatures had been obtained, although the petition was not what one would call a properly organized effort. Another petition had been organized by Mr. Taylor, the father of the little girl.

He asked the Home Office what medical treatment on those lines they intended to give to Edwardson during his term of imprisonment to stop him from being a menace and a danger again, should he come out. Edwardson, who had eight previous convictions, had admitted writing a letter threatening to murder his wife, and also to publishing obscene libels. Some months before the murder, he had told the police that he had sexual urges but had never carried out his murderous threats.

In 1949, Edwardson had been bound over for housebreaking. In 1950 he had been sent to prison for three months for indecent assault on a little girl aged five. Later in 1950, he had been put on probation for breach of an earlier probation order, and in 1951 he had been fined £5 for indecent exposure. In 1952, he had again been put on probation for two years for a similar offence. In 1954 he had been sent to prison for three months as being a suspected person and in 1955 he went to prison for six months for stealing. What a disturbing, absurd and unrealistic condition existed whereby a man with such a record of sexual offences and threats should be able to be free instead of being detained and treated in an institution specially available for all such unfortunate, but nevertheless, very dangerous people.

The Joint Under-Secretary of State for the Home Department, Mr. J. E. S. Simon, said that the murder of a child, particularly in circumstances associated with sexual perversion, filled everyone with horror and revulsion, and he could well understand the feelings of those who demanded that some drastic action should be taken. Nevertheless, Parliament had a solemn responsibility for national policy, and horror and revulsion were not good counsellors.

It had been stated in some quarters that there had been a great increase in child murder since the Homicide Act became law or within the last few years. That simply was not true and it did no service to parents to alarm them by exaggerated stories. Between the time when the Homicide Act received the Royal Assent on March 21 this year, and September 30, 32 children between one and 14 years of age had been murdered. The number during the corresponding period in 1955, which was, in fact, a year when the total number of murders was low, was 34. In both periods, the large majority of the victims were murdered by their parents, and in most cases the parents either committed suicide or were found to be insane. In the first period—that was the 1955 period—there had been only three murders of children which appeared to have a sexual motive. In the 1957 period there had been four, and in addition in that period—the six months in 1957—there was one case in which two children had been killed with motives which were not clearly established. What we had was, in 1955 three sexual murders of children in a period of about six months, and four or possibly six this year. He was not suggesting for a moment that those were other than abominable crimes, but he did not want parents terrified into the belief that child murderers were stalking the streets of every town. That simply was not true. He pointed out that last year over 700 children were killed on the roads.

One had to face the fact that the only way of making absolutely certain that sexual offenders did not repeat their offences and, in particular, did not commit murder, was either to detain them or to put them under a supervision so close that they were never out in public alone. The House ought to consider what would be involved in such a course. Some 5,000 people were convicted of sexual offences annually. Valuable study of sexual offences undertaken by the Cambridge Department of Criminal Science, showed that over four-fifths of the total number of persons convicted of sexual offences were so convicted for the first time, and that of those first offenders only one in 10 was subsequently reconvicted.

They had to consider whether they would be justified in putting people repeatedly guilty of, say, indecent exposure or of minor assaults, but not certifiably insane or mentally defective, under detention or supervision on the offchance that they might one day commit a murder. It would be absolutely alien to all that we believed constitutionally in the way of our social life that we should lock up anybody because he might be a criminal. It would be a serious invasion of the liberty of the subject. It would require the strongest justification and, indeed, would involve new legislation. The courts had the power to sentence the more serious sexual offenders to preventive detention if they had the necessary qualifying sentences. Many sexual recidivists also had a record of non-sexual crime which might in itself qualify them for preventive detention. Obviously, before arriving at that sort of stage, one would hope that remedial measures had been employed. At Wormwood Scrubs, Wakefield and Holloway, there were psychiatric units which had had a singularly high degree of success. The Prison Commissioners were this year starting building the psychiatric prison at Grendon Underwood.

He went on to offer a word of reassurance to those who believed that sexual murderers who were now sentenced to life imprisonment would serve a relatively short term and then be let loose to repeat those offences.

It was true that hitherto the normal run of reprieved murderers had been released after something like nine years, which was the average figure given during the debates on the Homicide Bill. It should, however, be remembered that those had been cases in which mitigating factors already existed to justify the reprieve. Even so, there had been exceptional cases in which it had been thought necessary to detain a man until he had reached an age at which he was no longer a danger to the public.

They now had a new problem with those murderers who were not capital murderers and, indeed, with those who were guilty of manslaughter because the jury had found a diminished responsibility. They did not know how long it might be necessary to detain some of those in those classes who were now being sentenced to life imprisonment, but it had been stated in the debates on capital punishment that some of them might have to be detained for a very long time indeed. Before any murderer was released, the most careful consideration was given to the question of whether there was a risk of his repeating his offence and no murderer was discharged merely because a given time had elapsed.

# PARLIAMENTARY INTELLIGENCE

**Progress of Bills**

**HOUSE OF LORDS**

Tuesday, November 19

MATRIMONIAL PROCEEDINGS (MAGISTRATES' COURTS) BILL—read 2a.

**HOUSE OF COMMONS**

Tuesday, November 19

LOCAL GOVERNMENT BILL—read 1a.

Wednesday, November 20

NATIONAL INSURANCE BILL—read 3a.

Thursday, November 21

EXPIRING LAWS CONTINUANCE BILL—read 3a.
PUBLIC WORKS LOANS BILL—read 2a.
IMPORT DUTIES BILL—read 1a.

# DUSTY ANSWER

It is instructive to observe how national characteristics manifest themselves even in the humblest and most utilitarian of social activities. Two recent issues of *The Times*, on successive days, revealed some interesting facts in connexion with a subject which one would not expect to find inspiring, or even attractive, to the general reader—the disposal of refuse in urban areas. Unpromising, however, as the theme may at first sight appear, the articles in question amply repay careful perusal.

The correspondent of our great contemporary who reports, from Bonn, on the West German social scene is a keen observer of life and manners. Stationed in a city which has two claims to renown—as the birthplace of Beethoven and the site of a famous university—he finds nothing too trivial for his attention; and boldly embarks on his dissertation with the arresting statement: "Few things are more typical of West Germany than the dustcart." He remarks upon the evidence of municipal pride provided by "the magnificent machines which progress down every street, twice a week, usually resplendent in shiny paint and civic crests," and rejoices in "the efficient way in which the bins are lifted hydraulically, and their contents emptied and apparently digested." But what impress him most of all are "the proud teams of men who serve these machines—proud of their ancient calling. Dressed in clean corduroy suits, uniform caps, and leather aprons and gloves, they walk with a flourish like brewers' draymen in medieval disguise for the Lord Mayor's procession."

*The Times* correspondent rightly finds social significance in the attention given by the West German community to "the dignity of its lower servants, whose confidence springs from the knowledge that they have an honoured and indispensable place in society." He traces the origin of these admirable qualities to the German virtue of *Gemütlichkeit*—a word for which it is difficult to find any single equivalent in the English language. *Gemütlichkeit* comprehends the ideals of civilized behaviour—"civility" both in the narrow, literal sense and in the broad, general connotation of the word. It includes politeness, friendliness, "cosiness" and consideration; the essence of good manners, "not imposed or imitated from above, but grown up naturally from below." And the writer notes its flourishing survival, in an age when civility is not supposed to matter much, and at a social level where, in other countries, it has probably never existed."

This is high praise; but the article makes it clear that in the Federal Republic there is little social snobbery today. It paints a picture of manual workers "as neat and clean as clerks when they go to work"; and enjoying their leisure by taking their families to restaurants "far better equipped and decorated than some superior establishments in Britain." The doctor, the lawyer, the bank-clerk, the factory-worker and the dustman sit, at adjacent tables, in the same beer-garden or riverside café, and nobody can tell the difference between their respective vocations. "Responsibility to each other seems to be the key; the ancient dependence between man and master has survived, in some form, between organized labour and employers." Social insurance for workpeople, it seems, was invented by Bismarck in the 1870s.

In the same issue of *The Times* appears a dispatch from Washington. In the United States "the task of carting away refuse and disposing of it is left mainly to private contractors who, sometimes with the help of compliant trade unions, are able to build up monopolistic control in large urban areas." This, says the Washington correspondent, has led to "rackets associated with the rich business of garbage collection." The problem has become grave enough to justify the setting up of a senatorial committee to "sift" (appropriate word!) the evidence of corruption in this field. Senator McClellan, the committee's chairman, has declared that "the threat to cut off garbage-collection from a business is often menacing enough to force it to accept the garbage-collector's terms—and these, of course, can be as steep as the collector likes." A Los Angeles police officer stated in evidence that, in his city, "garbage-collectors, aided by local branches of the teamsters' union, had established such an impregnable monopoly that they were able to close any restaurant or departmental store simply by declining to carry away its refuse, and posting pickets to make sure that no one else did." This power has enabled the contractors to charge exorbitant prices for their services—$20 million a year in Los Angeles, and $50 million in New York.

"Such fat pickings," writes the Washington correspondent, "have brought gangsters to the business like flies to garbage; the names of more than 400 'underworld figures' are likely to be mentioned in the hearings." One in particular is said to have "established a stranglehold on industry and trade-associations for his own personal profit."

These two articles pinpoint one facet of the contrast between "a consolidation of the bourgeois ideal" in an egalitarian society where every professional and social worker, with typical German thoroughness and discipline, receives his due, and the dangers of a complete "free-for-all" in indispensable social services. The British way, as we shall see next week, is a compromise between the two. A.L.P.

# PERSONALIA

## APPOINTMENTS

Mr. Patrick McCarthy O'Connor has been appointed deputy chairman of the court of quarter sessions for the Isle of Wight.

Mr. Henry Cooper Scott has been appointed deputy chairman of the court of quarter sessions for the East Riding of Yorkshire.

Mr. E. J. Hayward, the retiring county treasurer of Northamptonshire, is to be succeeded by Mr. H. G. Lloyd, who has been his deputy for 11 years. Mr. Lloyd has served in Staffordshire (where he began his local government service), Holland, Lincolnshire, North Riding of Yorkshire and Wiltshire.

## RESIGNATIONS AND RETIREMENTS

Mr. R. R. L. Gosling has resigned the position of clerk to Weston-super-Mare, Somerset, county justices, having held office for over 30 years since his appointment in June, 1927. Mr. and Mrs. Gosling were entertained to dinner at the Royal Hotel, Weston-super-Mare, by the justices for the division, when a silver salver suitably inscribed was presented to him. Mr. Erskine Pollock, LL.B., a partner with Mr. Gosling in the local firm of Messrs. John Hodge & Co., is the new clerk to the justices.

Mr. L. R. Bennett, clerk to East Grinstead, Sussex, urban district council, has resigned, owing to ill-health, as from February 28, 1958. He has been granted three months leave of absence from December 1, next. Mr. Bennett entered local government service in the town clerk's department of Tunbridge Wells, Kent, borough council.

## OBITUARY

Mr. Christopher Fairer, senior partner in the firm of Messrs. Cant & Fairer, solicitors, Penrith, Cumberland, and registrar of the Penrith, Appleby, Windermere and Kendal county courts, has died at the age of 59. After service in the First World War, Mr. Fairer served his articles with the family firm at Penrith, was admitted in 1923, and later became a partner. He was the third generation of the family to carry on a legal practice in the town for it was his grandfather, Mr. Christopher Fairer, who became a partner with Mr. T. G. Cant on the retirement of Mr. John Jamieson. Mr. Fairer was also district registrar for the High Court at Kendal.

# PRACTICAL POINTS

**All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.**

**1.—Criminal Law**—*Permitting premises to be used as brothel—Charge of aiding and abetting.*

A, the occupier of a dwelling-house, let one room therein to two women at £2 a week each, which sum included board and lodging. The evidence of police observations over a period of one month, convincingly prove that the two women use the room as a brothel. A has been summoned as, being the occupier of the premises, that he did knowingly permit part thereof to be used as a brothel. A's wife and the two women have been summoned, "For that they did aid, abet, counsel and procure A in the commission of the offence of 'knowingly permitting part of the premises to be used as a brothel,' contrary to s. 35 of the Magistrates' Courts Act, 1952."

If the two women had been charged with keeping a brothel contrary to s. 33 of the Sexual Offences Act, 1956, no difficulty would arise and they could be convicted on clear and convincing evidence of this offence, but doubts are entertained as to whether they can be convicted of aiding and abetting the occupier in knowingly permitting the premises to be used as a brothel.

It is felt that an offence against s. 35 of the Sexual Offences Act, 1956, Magistrates' Courts Act, 1952, is not one that can be aided, abetted, counselled or procured.

The simple question is whether these two women on the evidence that they kept or used the room as a brothel can be convicted of aiding, abetting, counselling and procuring the occupier in the offence of knowingly permitting part of the premises to be used as a brothel.

HAWAN.

*Answer.*

In theory, a charge of aiding and abetting in this case is possible, but, if the alleged aiders and abettors have themselves committed an offence arising out of the same facts, we think it would be better practice to proceed against them for that offence.

**2.—Highways**—*Adoption by county council—Contribution towards putting in order.*

Has a county council power to contribute to the cost of putting into a reasonable condition before adopting it (*a*) a private road or (*b*) a highway hitherto not maintained by the highway authority ?

P. RUSTICUS.

*Answer.*

(*a*) and (*b*). Yes, under s. 15 of the Private Street Works Act, 1892, or the street can be made up by agreement under s. 146 of the Public Health Act, 1875, as applied by the Local Government Act, 1929, s. 30, sch. 1, part 1, or, if appropriate, under the Agriculture (Improvement of Roads) Act, 1955, ss. 1, 5 (1).

**3.—Highways**—*Queue barriers at omnibus stopping places.*

My council have been asked to provide a queue barrier on the footpath of a highway where there is a bus stop, in order to prevent congestion there, but I cannot find any power to enable them to do this. Section 4 of the Local Government (Miscellaneous Provisions) Act, 1953, gives power to provide and maintain in any highway which is comprised in the route of public service vehicles, or on any land abutting on such a highway, shelters or other accommodation, at stopping places on the route for the use of persons intending to travel on such vehicles, but I doubt whether the words "or other accommodation" include queue barriers. Section 7 of the same Act relates to the maintenance of barriers or posts for the regulation of persons waiting to enter public service vehicles, where such barriers or posts have been provided before the commencement of the Act in the exercise of powers conferred under reg. 54 (b) of the Defence Regulations, 1939. Please advise:

1. Whether s. 4 of the Local Government (Miscellaneous Provisions) Act, 1953, gives power to the council to provide queue barriers ; and

2. If not, whether there is any other power to do so.

PAMOR.

*Answer.*

1. No, in our opinion. Queue barriers alone are not within the power, but a shelter may be so constructed under the power as to form a queue barrier in fact.

2. We know of no other power.

**4.—Housing**—*Demolition of unfit house—Exposure to weather of adjacent house.*

In answering P.P. 4 at 115 J.P.N. 142 you say that you have from time to time suggested that a council, being a public health authority as well as a housing authority, ought on merits to render weatherproof a house wall exposed by their operations, but they are under no liability if they do not. The difficulty appears to be that if a council whose accounts are subject to district audit took this course the auditor might disallow the expenditure.

PARLO.

*Answer.*

Sometimes the weatherproofing could be done by agreement with the owner. If not, we doubt whether the auditor would ever disallow reasonable expenditure for this purpose: we cannot recall a case. If he expressed qualms about it, the expense is, in our opinion, of the sort which the Minister would almost certainly sanction during audit, under the proviso to s. 228 (1) of the Local Government Act, 1933.

**5.—Licensing**—*Special removal—Limited discretion to refuse—Objection by members of public.*

A brewery company is desirous of obtaining new sites for public houses. Some of these sites are most undesirable from my licensing committee's point of view as the areas they serve are already adequately served by licensed premises. This particular company has various sites upon which public houses are at present erected, but these are likely to be pulled down shortly for public purposes. It is possible that the company will apply by way of special removal to have these licences removed to buildings erected on the sites to which I have previously referred, which are most undesirable from the licensing committee's point of view. If the company apply for these special removals and the premises and the licensee are suitable, can my justices refuse them ? Also, can members of the public appear in opposition, and if so, upon what grounds could they object ?

O. LEX.

*Answer.*

Our correspondent will find his problem fully argued: on the one side, in the judgments of Humphreys, J., and Croom-Johnson, J., and, on the other side, in the dissenting judgment of Wrottesley, J., in *R.* v. *Weymouth Licensing JJ., ex parte Sleep* (1942) 106 J.P. 117. Licensing justices are limited in their discretion to refuse an application for special removal and there seems to be little room for the exercise of any discretion in the cases outlined by our correspondent.

In our opinion, any member of the local community may appear and oppose: opposition may be on any public ground upon which the licensing justices ought to be informed (*see Boulter* v. *Kent JJ.* (1897) 61 J.P. 532).

**6.—Magistrates**—*Jurisdiction and powers—Committal to sessions for borstal without Commissioner's report as to suitability—Correcting this error.*

Your opinion on the following circumstance would be appreciated.

Two youths of 17 were jointly charged with taking away a motor cycle without the consent of the owner, together with other charges including larceny of a motor car battery. They both had previous convictions and the magistrates committed them in custody for sentence at quarter sessions with a view to borstal training.

The magistrates' clerk subsequently realized the proper course should have been for the youths to have been remanded in custody for a medical examination to see if they were fit for borstal training. The prison authorities where the youths were in custody were directed to produce them before the magistrates. At the hearing the defendants were legally represented and the defending solicitor asked and was granted permission to address the bench as to the suitability of borstal training, submitting that that the powers of punishment the magistrates had should be exercised and that the magistrates should deal with the defendants themselves.

As there was only one magistrate sitting he remanded the defendants in custody until the next full court day. Bail was not asked for.

1. When the defendants come up before the magistrates again, have the magistrates power to alter their original decision and deal with the case themselves ?

2. If the defendants are at the next hearing remanded in custody for a medical examination, can bail be asked for ?

3. To advise generally as to a rather unusual set of circumstances.

ISSAR.

*Answer.*

It is clear from s. 28 (2) of the Magistrates' Courts Act, 1952, that the justices had no jurisdiction to commit to quarter sessions without obtaining the Prison Commissioners' report. We dealt at 120 J.P.N. 275 with "treating proceedings as a nullity" and we think that the justices in this case are entitled to treat their committal as a nullity. If this is so they can start again from the point at which they have to consider what is the appropriate method of dealing with these two defendants.

The answers to the questions asked are:

1. Yes.

2. If the remand is for a "borstal report," in pursuance of s. 28 (2), *supra*, the remand must be in custody.

3. We can only refer to the article mentioned above.

**7.—Magistrates**—*Jurisdiction and powers—Justices sitting in a court room outside their petty sessions division.*

The court room for the petty sessional division of H is about to undergo extensive alterations which will mean that the justices will not be able to sit at the court during the next six months. In the neighbouring division of N there is a new court house which has recently been built, and I take it there will be no objection to the justices for H division sitting and carrying out their business in normal cases as well as licensing and other matters, at the new court room at D in the petty sessional division of N, provided that I give due public notice of their intention. I should be glad to have your opinion that it will be in order for the justices to sit outside their division to transact business from within their division.

MOLOR.

*Answer.*

There is no objection. Not only may a justice sit in a court room outside his division, by s. 116 of the Magistrates' Courts Act, 1952, a justice for a county may act as such in any county or borough adjoining that county.

**8.—Magistrates**—*Practice and procedure—Later offence committed and dealt with before earlier offence—Taking later conviction into consideration ?*

I shall be glad to have your views on the following rather unusual point which arose at my court recently:

A defendant was summoned for an offence under s. 11 of the Road Traffic Act, committed in June last. When the case was heard in my court the defendant pleaded guilty and the court was then informed that after the offence in June the defendant had been summoned in another court for an offence under s. 35 committed in July and that this offence had been before the court and the defendant fined and disqualified.

Do you consider that in such a case this later offence is a "previous conviction" of which the court should take notice in fixing the sentence or should it be ignored for the reason that at the time the offence was committed in June there was no conviction recorded ?

JONIB.

*Answer.*

We think that in dealing with the earlier offence the court should have regard only to matters which occurred before the commission of that offence.

**9.—Public Health Act, 1936**—*Private sewer receiving both house drainage and street water—Right to connect to public sewer.*

What are the owner's rights under s. 34 of the Public Health Act, 1936, particularly proviso (b) in subs. (1), where a sewer provided by the council takes foul water from houses and surface water from houses, but not surface water from roads ? It is not designed solely for the purpose of taking foul water nor is it designed solely for the purpose of taking surface water. The council are not a highway authority. Can a developer connect his private sewer which takes, in addition to the house drainage, drainage from the estate roads ?

PUCKOL.

*Answer.*

Yes, in our opinion: *see* the definitions of "drain" and "sewer" in s. 343. We are told that the private sewer taking surface water from the estate roads also takes house drainage.

**10.—Road Traffic Acts**—*Braking systems—Bottom or reverse gear as a "brake."*

I would be grateful for your valued opinion on the following point:

A is stopped when driving a private car and on examination it is found that the handbrake on the vehicle cannot be set in the "on" position, although whilst it is held there it effectively prevents the rear wheels from revolving. When this is pointed out to him the driver says, "The ratchet is worn; I always put it in bottom gear to hold the car stationary . . ."

Regulation 10 of the above requires a vehicle to be equipped with a braking system, which *may* be one of the systems required by reg. 44, "so designed and constructed that it can at all times be set so as effectively to prevent at least two . . . of the wheels from revolving when the vehicle is not being driven or left unattended."

In the absence of any definition of "braking system" if the selection of, say, bottom or reverse gear holds the car stationary, does this in your view meet the requirements of reg. 10 and as much of reg. 91 as is applicable ?

KELEM.

*Answer.*

We have no doubt that the gearbox and the compression of the engine of a car are not part of the braking system within the meaning of the regulations. We think that the wording of reg. 44 makes this quite clear.

**11.—Tort**—*Water main laid under statutory powers—Damage by escape of water.*

A water company incorporated by special Act of Parliament incorporating the Water Works Clauses Acts, and having extended powers granted by subsequent Acts, laid down a water main in the public highway. The main burst and as a result water entered the basement of a shop and damaged goods. The water company deny liability, on the ground that there is no proof of negligence on its part, and there seems no information available to the shopkeeper which would prove the contrary. It does not appear that its liability for common law nuisance is preserved in any of the statutes governing the company. Is the water company liable for the damage caused ? In particular does the doctrine of *res ipsa loquitur* apply ?

POWLEY.

*Answer.*

The water company will not be liable unless it can be shown that they were negligent in the laying of the pipe, so that it was rendered liable to burst, or that they have failed to keep it in repair when they knew or ought to have known of the dangerous state of the main. If the dangerous state is not due to their negligence, they will not be liable until the time when they have had a reasonable opportunity to repair the works and deal with the danger. The doctrine of *res ipsa loquitur* can hardly apply when the main may have burst as the result of subsidence or the weight of traffic over it.

**12.—Town and Country Planning Act, 1954, s. 33**—*Contract within time specified but no intimation to council—Renewed application under subs* (1).

A question of interpretation of s. 33 (2) (*b*) of the Act has arisen:

1. May 10, 1957, application received by local authority for notice under s. 33 (1).

2. May 22, 1957, issue of negative notice by local authority, under s. 33 (2) (*a*).

3. August 27, 1957, notice received by local authority under s. 33 (2) (*b*) that on June 20, 1957, the applicant had entered into a contract for the purchase of an interest in the land referred to.

(*a*) Do the words ". . . . within three months of the service of the notice" in s. 33 (2) (*b*) also apply to the subsequent words in the subsection ". . . and given notice of the completion, etc. . . ." *i.e.*, must the applicant's notice of the completion of contract for purchase on the date as stated be given to the local authority within three months from the date of the notice under s. 33 (2) (*a*) ?

(*b*) If the answer to (*a*) is "yes," would you advise the original applicant to defer completion of the purchase and make fresh application for a further notice in the interim ?

BORAM.

*Answer.*

(*a*) Yes, in our opinion, upon the grammatical construction of the section.

(*b*) We think this can be done; the section does not preclude a second application.